United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, FIRST SESSION

Vol. 143 WASHINGTON, FRIDAY, OCTOBER 31, 1997 *No. 150*

Senate

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

PRAYER

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

Gracious, loving Father, You have taught us to give thanks for all things, to dread nothing but the loss of closeness with You, and to cast all our cares on You. Set us free from timidity when it comes to living the absolutes of Your commandments and speaking with the authority of Your truth. All around us we see evidence of moral confusion. People talk a great deal about values, but many have lost their grip on Your standards.

Help us to be people who live honestly with integrity and trustworthiness. We want to be authentic people rather than studied caricatures of character. Free us from capricious dissimulations, from covered duality, from covert duplicity. Instead of manipulating others with power games, help us motivate them with love. Grant us the passion that comes from committing our lives to You, the idealism that comes from understanding Your guidance, and the inspiration that comes from relying on Your spirit as our only source of strength.

May this be a day for glorifying You through all that we do. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. COVERDELL. Mr. President, this morning the Senate will proceed to consideration of H.R. 2646, the A-plus education bill, with the time until 10:30 a.m. being equally divided between Senator COVERDELL and Senator DASCHLE or his designee. Following the debate time, the Senate will conduct a cloture vote on the A-plus education bill. Therefore, Members can anticipate the first rollcall vote today at approximately 10:30 a.m. If cloture is not invoked, the Senate will proceed to a cloture vote on a motion to proceed to the Defense Authorization Act conference report. Members can anticipate additional procedural votes on that measure.

In addition, the Senate may consider the District of Columbia appropriations bill, the Amtrak strike resolution, or any additional legislative or executive items that can be cleared.

As a reminder to all Members, the first rollcall vote this morning will occur at 10:30 a.m.

RESERVATION OF LEADER TIME

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

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, which the clerk will report.

The assistant 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.

The PRESIDING OFFICER. The time until 10:30 a.m. will be divided between the Senator from Georgia [Mr. COVERDELL] and the minority leader, or his designee.

The Senator from Georgia.

Mr. COVERDELL. Mr. President, I rise on behalf of H.R. 2646, the A-plus education bill. What has become known as the A-plus account, or education savings account, is a unique instrument that is being designed to help American families across the land to deal with education deficiencies, particularly in grades K–12, kindergarten through high school, although the account may be kept intact and used for higher education if that is the desire of the family.

Simply put, a family could save up to $2,500 every year from the child's birth in a savings account much like an IRA that most Americans have come to understand, a similar instrument. These are after-tax dollars. The interest that would build up each succeeding year would not be taxed if the proceeds of the account are used for virtually any educational purpose. So it becomes a tool that empowers parents to deal with particular or peculiar deficiencies of the child.

As a result, my own view is that the value of these dollars could be as much as three to five times a typical public dollar being spent because the dollar is being directed at the unique deficiency.

Let's say, for example, the child had a learning disability, or dyslexia, that required special attention. The dollars could be put right on that problem. Or perhaps the child had a math deficiency and it required a tutor, or there was a transportation problem to deal with an after-school program, or a learning disability of some form. All of these particular problems, broad dollars cannot necessarily address, but these savings accounts can. They can go right to the deficiency.

A unique feature of the savings account is that the account can receive contributions from sponsors. When you do that, the imagination begins to work at the different kinds of things that could happen to help build this account up for this child. A corporation, an employer, could be a contributor to

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

Printed on recycled paper containing 100% post consumer waste

these accounts. You can envision matching circumstances, where an employer would say I'll put so much in your children's account if you'll match it. You can imagine a church becoming involved in these types of accounts. I can see a community—recently in Atlanta we lost a law enforcement officer, and people are often trying to find a way to help the remaining family. I can see communities stepping forward in this case and establishing an account for the surviving children. So community, employers, extended family, brothers, uncles, neighbors, grandparents—all of these individuals could become sponsors of these children's accounts.

As a result, a large infusion of enrichment will occur to education in America, one of the largest in 10 years—billions of dollars. The Joint Committee on Taxation has advised us that 14 million families will make use of these accounts—14 million families. A quick estimation there shows you somewhere around 20 million-plus children, approaching half of children in America's schools, will be beneficiaries to some degree of these accounts.

It baffles me that some in the professional system, the National Education Association, oppose this. They want to believe and others to think that—I think the line is that it only will help wealthy people and that it will only support religious schools. Both assertions are utterly false.

I have been stunned by an organization of this character being so misleading about a matter of public policy. You would think that an organization associated with schooling and role modeling for young people could do a little better job of being candid and straightforward about their opposition. It has had some effect, because many people think the savings account is the equivalent of a voucher. A voucher—which I support; they don't—but a voucher is the redistribution of public money. In other words, the money raised from the public for taxes, property taxes or the like, is given to the family and they can move it to any point they would like. That is a voucher. This is a savings account. This is not public money. This is private after-tax money. And we are not taxing the buildup.

Under their definition of public money, I guess the capital gains tax reduction would be a voucher because we have left money in someone's checking account and they can use it some way they choose. But, in any event, the allegation is that it is for the wealthy and that it supports religious schools.

Here are the facts. According to the Joint Committee on Taxation, of the 14 million families that will use these accounts, 10.8 million of them will be in families whose children are in public schools; 70 percent of the funds generated, this enrichment, this additional effort and energy coming behind our school system, private and voluntary, will go to support public schools—70 percent—and 30 percent to private schools.

According to the Joint Committee on Taxation, 70 percent of all these funds will go to support children and families earning $75,000 or less. It is means tested. It is not for the wealthy. It has sponsors, so that we can help those who have a tough time organizing the accounts, and the principal beneficiary will be the public school system of America and the families in it.

Mr. President, I yield at this time.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, let me first congratulate my friend and colleague on the thoughtfulness of his remarks and the cogency of his arguments. If I will now speak in opposition, it is first and foremost a procedural opposition and jurisdictional one, having to do with bills sent from the House of Representatives and held at the desk and not referred to the Committee on Finance.

Mr. COVERDELL. I appreciate that.

Mr. MOYNIHAN. And also having to do with the season of the year.

Mr. COVERDELL. I appreciate the general remarks.

Mr. MOYNIHAN. Mr. President, in an op-ed article in the New York Times on Tuesday, Richard Leone, who is the president of the 20th Century Fund, an eminent New York City institution, remarked, ''Last week, the House of Representatives took time out from beating up on the Internal Revenue Service to approve a fresh tax loophole.''

I have had occasion to comment that on July 31, when we voted 92 to 8 to approve an 820-page addition to the Internal Revenue Code, the only copy of the bill in this Chamber was in the possession of our most distinguished tax counsel, Mr. Giordano.

Somewhat furtively, Members would come up and ask if they could just check whether their provision was in the bill. We might have charged for that service. We did not, in the public spirit of the occasion. But it was no way to legislate taxation.

In that spirit, I simply want to say that neither, at this time and in this manner, ought we to be approving a new provision providing for expansion of IRA's that would cost us $4 billion over 10 years. That is in addition to the $38 billion in new IRA's which we passed on July 31. There was an education IRA, and I am happy to say a Roth IRA. Our distinguished chairman is to have the satisfaction, I hope it is, of seeing in bank windows around the country, ''Roth IRA available for purchase,'' which people will be wise to do.

The tax legislation for this session of the 105th Congress is concluded. We will resume next year. I hope we don't resume with too much energy. It is a fact that we impose upon the Internal Revenue Service, and upon the citizenry much more than the Internal Revenue Service, incredibly complex measures which defy assessment in so many cases. And we do it while calling for the repeal of the Internal Revenue Code and the abolition of the IRS. Well, I can understand the calls that issue from the House of Representatives to abolish the IRS, because increasingly its task is impossible. But on the other hand, there is something called the Nation and it does require revenues. Even if they are reduced to that elemental proposition of delivering the mail and defending the coasts, that does require revenues. The choices are for us many and we shouldn't complexify them to the point of plain bafflement.

The President has said he will veto this bill. Our President, in a letter to our distinguished majority leader of July 29, thanked the majority leader and, by reference, the others of us in conference on the Tax Relief Act of 1997, for the bipartisan way in which we were putting that legislation together, but he did say he would strongly oppose the measure of the Senator from Georgia. So, accordingly, that was taken out in conference in order for the whole bill to be approved.

I ask unanimous consent that the President's 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, July 29, 1997.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: I want to again thank you for working in a productive, bipartisan manner to develop this bipartisan budget agreement. I feel particularly good about the strong education package that is included in the tax bill. As you know, in working out the final agreement, I strongly opposed the Coverdell amendment. I would veto any tax package that would undermine public education by providing tax benefits for private and parochial school expenses.

Sincerely,

BILL CLINTON.

Mr. MOYNIHAN. I thank the Chair.

One further point. After a very great deal of effort and not inconsiderable amount of pain, we have brought the Federal budget into balance. I stood here in 1993, or rather my good friend, now Ambassador to China, Mr. Sasser, as chairman of the Budget Committee, stood here and I stood there as chairman of the Finance Committee, and in a very close and dramatic moment, we got the required 51 votes to enact what I have since acknowledged to be the largest tax increase in history. But it broke the back of the expectation that we could never handle our finances, that interest rates had to be high, the inflation premium attendant on the probability that we would end up monetizing the debt because we couldn't pay for it. Monetizing is a term by which you inflate the currency and lower the cost of the debt.

We did it, and the deficit has gone down. We have this most extraordinary, unprecedented, somewhat difficult-to-comprehend situation of full

employment, low inflation, low interest rates, high productivity. Fuller employment than we ever thought was compatible with the interest situation. We are in a new economic setting, and by March, I would think, the continued revenues to the Treasury would be such that the deficit will have disappeared.

We have talked about the deficit, not always in the calmest tones, for a decade now. We finally balanced the budget, and what do we suddenly see? More and more proposals for cutting taxes through one form or another, losing revenue so we will get the deficit back again.

Mr. President, the time is at hand, if I may say, to use the deficit to reduce the debt. We now spend almost as much money on interest payments as we do on defense. That is not a proportionate set of values of interests, of priorities. We ought to start reducing the debt. For every dollar of public debt that we reduce, we get $1 of private savings, private investment, which, in turn, will produce revenue, and on one hand, it will reduce costs of interest payments, and on the other hand, it will increase revenue. We are short of savings. I know the concern of the Senator from Georgia is savings, but at this moment, I would like to say we will take this up next year. This has not been referred to the Finance Committee. It is a House measure held at the desk in the last hours of the first session of the 105th Congress. I hope that we will put it off until next year when it will receive a goodly consideration. I can't say I know this to be Chairman ROTH's intention, but I cannot doubt it is his intention, such as it is his manner in all these issues.

But to say again, the measure before us would spend $4 billion over 10 years to increase the contribution limit for education IRA's from $500 to $2,500 per year, provide for tax-free build-up of the earnings in such accounts, and tax-free withdrawals for an array of expenses relating to elementary and secondary education. The bill comes to this floor directly from the House; it has not been considered by the Finance Committee.

With great respect to the sponsor of the bill, the distinguished Senator from Georgia, I do not believe the Senate should take up this legislation at this time. It was just 3 months ago that we passed the Taxpayer Relief Act of 1997, which included a net tax cut of $95 billion over 5 years and $275 billion over 10 years. At a cost of $38 billion over 10 years, that act created the education IRA and the Roth IRA, and significantly expanded existing IRA's and the tax benefits of State-sponsored prepaid college tuition plans. And now, we are asked to expand those recent IRA changes even further.

As well intentioned as this legislation is, surely there are many other priorities that should take precedence if we are serious about doing something for education. Priorities that have been thoroughly considered in the Finance Committee and by the full Senate. One such priority is the income exclusion for employer-provided educational assistance, which is Section 127 of the Internal Revenue Code. It is probably the single-most successful tax incentive for education we have. In the tax bill that emerged from the Finance Committee in June, we made section 127 permanent and we applied it to graduate school. Unfortunately, when the tax bill came back from conference, this provision was limited to a 3-year extension only for undergraduates.

Proponents of the pending legislation speak of a crisis in our elementary and secondary schools. There is no more compelling illustration of this than the state of the infrastructure of these schools. During the debate last summer on the tax and spending legislation, Senators CAROL MOSELEY-BRAUN and BOB GRAHAM brought the issue of crumbling schools to our attention, and they continue to be eager to address it. If we feel we must spend $4 billion, why not spend it to insure that schools have heat this winter?

There are also tax policy concerns with this bill. First, complexity. Even as we hear ever louder calls to scrap the code, we have before us a bill that would create a maze of rules in attempting to define what constitutes a ''qualified elementary and secondary education expense.'' The bill states that qualified elementary and secondary school expenses include expenses for tuition, computers, and transportation required for enrollment or attendance at a K–12 institution, and for home schooling. There is no further definition. For example, would it be possible to withdraw money from these accounts to purchase the family car? I don't know, but you can't find the answer in the text of this bill.

Under the bill, the ability to contribute funds for elementary and secondary education expenses is proposed to sunset after 2002. However, money contributed through 2002 could still be used for such expenses. It will be up to the taxpayer to track—and the IRS to examine—when funds were contributed, and whether they can be used for only elementary and secondary education, only higher education, or both.

The administration estimates that 70 percent of the benefits of the bill go to the top 20 percent of income earners, taxpayers with annual incomes above $93,000. Tax benefits to taxpayers below that level are estimated to be nominal. If the proponents are truly concerned about the middle class, the tax benefits should be targeted there. In order to accomplish this, the income limits that apply to this bill would have to be lowered, and the ability to circumvent those limits would have to be prevented.

Mr. President, I appreciate the good will of the sponsors of this legislation, which we will be happy to consider in the Finance Committee in the next season. But please let us not take up a tax bill, of all things, in the final days of this session. This is no time for this tax bill or any other tax bill. But if our friends in the majority insist on going forward, I believe they will find that Senators on this side—and doubtless on their side, too—will be ready with amendments by the dozens.

I thank the Chair and yield the floor.

I thank the Chair for his courtesy, and I thank my friend.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I thank the Senator for his generous remarks addressed toward me at the initial opening of his statement. I appreciate that very much.

I now yield up to 4 minutes to my good colleague from Connecticut. I want to just say that he, Senator LIEBERMAN, has been at the forefront of education reform for more years than I. He is very dedicated to these proposals, and his support of this measure has been personally and publicly appreciated.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair and thank my friend and colleague from Georgia for his very kind comments. May I say, with his leadership on this issue, he has come right to the forefront of the national movement for education reform.

Let me say first, briefly, how grateful I am, and I know the Senate across party lines, for the bipartisan leadership for the agreement that was achieved yesterday on scheduling the consideration by the Senate of campaign finance reform, which is important in its own right because of the significance of that effort, but also important because it frees us now to approach on the merits issues such as this.

I am proud to be a cosponsor of this Education Savings Act for Public and Private Schools. It is a bipartisan cosponsorship, as will be clear from those who speak on behalf of it.

Mr. President, it seems to me that of all the challenges that we have before us as we try to make this great country of ours even greater and spread the opportunities beyond those who have them best now, the most important place we can invest is in education, the education of our children.

As we look at the education system in our country, I think we can say with some pride that the system of higher education is really doing quite well, but that it is the elementary and secondary schools, in making sure that our children get a good start on the road to education and self-sufficiency, that really need help.

There are a lot of good things happening in our public and private and faith-based schools, but too many of our kids are still being educated in schools that are either in terrible shape physically, schools in which

their personal security is threatened by crime in the schools, or schools in which there is not adequate teaching and innovation going on.

This measure is a classic attempt to create a partnership between the Government and families and businesses to help people better educate their children at the elementary and secondary level. It is a tax incentive, a small one. It is like dropping that pebble into the lake, and it is going to create ripples out for individual children and for our society that I think will be dramatic.

I want to make just a few points.

This recommendation of these educational savings accounts builds exactly on the higher education savings accounts that we adopted just a few months ago with broad bipartisan support. In that case, you could put $500 in. The income would be tax free, particularly if you took it out for years in higher education. It had income limits in it for means testing, if you will.

This proposal of ours takes that idea and simply extends it to K–12 education, with one big change—two, I suppose. One is that you can put in not just $500 but $2,500 in and others can invest in those accounts—grandparents, uncles, aunts, businesses. I wouldn't be surprised, if this is adopted, that labor unions will begin to negotiate with their employers to put matching contributions into the savings accounts for their kids.

The point I want to make is this. A lot of anxiety and opposition has been expressed about this proposal. It is the same proposal that most of us voted for enthusiastically just a few months ago for higher education. So why is it so frightening now and it was so much accepted before? Why was it middle-class tax relief then and it is now some sort of giveaway to wealthy people?

I think if you focus on the merits of this, understand what independent analysis has told us that 70 percent of those who will benefit from this will be sending their kids to public school, that it can be used not just for tuition payments but for a broad array of support services—transportation, home schooling, purchasing a computer, et cetera.

This is the kind of program that dreams are made of, that dreams are realized from. Parents who are working hard trying to find a better way for their children will be able to put a little money in these accounts or have some relatives put some money in, or convince the employer to put some money in and make it easier for them to take their children and put them in the schools where they want them, public or private or faith-based, or give the kids the support they need to get the better education.

I think this is a good proposal whose time has come, and I am proud to be a cosponsor. I thank Senator COVERDELL for his leadership on this, and I yield the floor.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Georgia.

Mr. COVERDELL. Mr. President, I appreciate very much the remarks of the Senator from Connecticut. He has made excellent points. This has already been passed by 59 votes in the Senate. It has been passed by the House. It is an extension of a proposal that both bodies overwhelmingly passed. I am fearful that we are in the midst of a filibuster attempt by special interests to block it, but we are going to stay at it, filibuster or not.

I now yield up to 4 minutes to the distinguished Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for up to 4 minutes.

Mr. ALLARD. Thank you, Mr. President.

I thank the Senator from Georgia for yielding. And I compliment him on his leadership, particularly on educational issues.

Today, I am here to encourage my colleagues to support legislation which will open doors of educational opportunities to the parents and children throughout our Nation. Education savings accounts are a sensible step toward solving our education crisis in America by allowing families to use their own money—to use their own money—to pay for their child's education needs.

This bill would empower parents with financial tools to provide all the needs they recognize in their children, needs that teachers or administrators cannot be trusted to address in the same way that a parent can.

These accounts would provide families the ability to save for extra fees that they might incur, have to deal with, when they are sending their children to public schools, fees that may be necessary to pay for computers or maybe they want to go down and buy their own computer to help with their child's education, maybe some tutoring needs within the family, maybe they need to prepare for the SAT.

Transportation costs could also be an educational need, particularly in rural areas, or maybe special circumstances that would allow a family to consider some private alternatives as opposed to public education.

Handicapped children, for example, I think could really benefit from this because they do have special needs. This encourages the family of the handicapped to meet those special needs and to pay the costs that they may incur and still send them to a public school.

This kind of tax relief is especially important for parents who are working two jobs with no extra time to help with homework or those who do not feel adequate in their own knowledge to tutor their children.

As parents, I know that my wife and I were the best judges of our children's needs, and I am proud of the way they have developed. As all parents realize, I knew that I was in the best position to address their needs. I would have welcomed an opportunity to accrue tax-free interest to help pay for more opportunities in the education of my children. Far too many parents find that their hopes to provide the best education for their children are crushed as they realize the costs involved in accomplishing this task.

Contrary to popular myth, 75 percent of the children who would benefit from this bill are public school students. The new estimates released by the Joint Tax Committee disprove the claim that public school revenues would be reduced by what is referred to as the A-plus accounts.

The Joint Tax Committee estimates that by the year 2000, 14 million students would be able to benefit from this bill with 90 percent of those families earning between $15,000 and $100,000 a year.

Mr. President, this is an important piece of legislation. It empowers families, and it empowers them to control the education of their family and meet their special needs. So I am absolutely thrilled with the leadership that the Senator from Georgia is showing in this regard. If my time is running out, I yield the remainder of my time back to the Senator from Georgia.

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

Mr. ROTH. Mr. President, the respected historian and biographer, David McCullough, recently reminded us of the importance of education. Quoting John Adams, Professor McCullough wrote: ''Laws for the . . . education of youth are so extremely wise and useful that to a humane and generous mind no expense for this purpose would be thought extravagant.''

Today we consider a law that will go a long way toward helping parents provide educational opportunities for their children—a law that will benefit students, whether they attend public schools or private.

This bill, which is sponsored by our distinguished colleague Senator COVERDELL, and which has broad bipartisan support, expands the education savings IRA. It allows families to save up to $2,500 a year, and to use this money to pay for educational expenses for their children attending school, from kindergarten to 12th grade.

This, as John Adams would say, is a wise bill. It is one that will go a long way toward helping our families meet the rising costs associated with schooling. It will go a long way toward helping our children receive quality educations. And it will pay dividends to America, itself, as these children—better educated and more prepared—become the parents, educators, scientists, businessmen, and businesswomen of tomorrow.

Not too long ago, the Finance Committee held hearings to look into the rising costs associated with education, and the pressure those costs place on parents and families. What we found was rather alarming. Today, parents are under an enormous burden when it comes to paying for education. And the costs continue to rise.

We designed the Taxpayer Relief Act of 1997 to help parents and students offset some of these costs. For example:

We created an education savings IRA to allow parents to save for higher education.

We expanded the tax-deferred treatment of State-sponsored prepaid tuition plans.

We restored the tax deduction on student loan interest.

And, we extended the tax-free treatment of employer-provided educational assistance.

Each of these measures will go a long way toward helping our students and their families handle the burden associated with education. Personally, I would have liked to see stronger measures in each of these areas. The Senate version of the Taxpayer Relief Act actually contained stronger provisions, and I introduced them as a separate bill the very day that we passed the Taxpayer Relief Act.

The legislation we're considering today—which Senator COVERDELL has introduced in the Senate—is in keeping with the spirit and emphasis of our efforts. It expands the education savings IRA that we passed in the Taxpayer Relief Act of 1997. It allows the IRA to be used to help families finance school-related needs for their children beginning in their kindergarten years and covers them all the way through high school. It raises the yearly contribution amount from $500 to $2,500.

It allows savings from the IRA to be used for both public and private schools. For example, money could be withdrawn to pay for tuition, fees and books for children attending private school. It could also be withdrawn to pay for computers, uniforms, instruments, books, supplies, and other educational needs for children in public schools. In addition, Mr. President, this expanded IRA can be used for children with special needs throughout their lives.

This legislation does not engender a public versus private debate. It is fair and good for families and children who elect either form of education. It is focused on middle-income families—those who are most pinched by the rising costs of education. It provides these families with the tools they need to have the freedom to select whichever form of education they feel is best for their children.

According to estimates by the Joint Committee on Taxation, the vast majority of withdrawn funds from these expanded IRAs will go for public school children. Over 10 million families with children in public schools will use these educational savings accounts, as opposed to a little over 2 million families with children in private schools. The expanded education savings IRA's are completely paid for, as revenue loss will be fully offset by repealing an abusive vacation and severance pay accrual technique.

Again, Mr. President, this legislation has strong bipartisan support. It is good for families, good for children, and good for the future of America. It builds on the foundation we set with the Taxpayer Relief Act of 1997. It provides flexibility as well as opportunity, and it is a necessary step toward providing parents with the tools and resources they need to help their children prepare for the future.

Mr. D'AMATO. Mr. President, I rise in support of the A plus Education Savings Accounts Act which will provide families—an estimated 14.3 million families by 2002—with the opportunity to save for their children's education, an investment by parents for their children's future.

Education savings accounts allow parents, grandparents and scholarship sponsors to contribute up to $2,500 a year per child for an account that will be used for a child's education. The interest accrued will be tax-free as long as the funds are used to further the best possible education for their children.

The funds saved by parents must be used for educational purposes—and can include expenses for home computers, tutoring for children with special needs or tuition for a private school. The money will be used in the most efficient manner because it will be the parents who make the decision on how to use the money.

These education savings accounts leave public resources in public schools and let parents use their own money to augment education for their most precious investment—their children.

This is a common sense approach—an education reform that gives control back to parents, improving education for their children.

We must encourage parental involvement in their child's education, and this is an excellent way to allow that involvement, making the education system more responsive to parents.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, as a member of the Senate Finance Committee, I join Senator MOYNIHAN in his objection to this legislation on procedural grounds. As a member of that committee, I can attest to the fact that we have had no hearings at all on this legislation. The issue has not come up in committee. In fact, as far as I know, there is no precedence for bringing a House-passed tax bill to the Senate floor without any committee consideration whatsoever, without a single hearing or markup, and then immediately subjecting that matter to a vote to close off debate.

That is what this is about. If cloture is invoked, it would limit the ability of Senators, those on the Finance Committee and everybody else, for that matter, to offer amendments. Members of the Finance Committee, Members of this body have not had an opportunity to offer amendments, have not had an opportunity to debate this matter, and this vote effectively will shut off that debate.

I have filed two amendments to this tax bill, both relating to the issue of school repair and construction. Our buildings, as many parents know, are literally falling down around our children. They certainly cannot learn in those kinds of environments.

I know of other amendments that have been filed relating to a variety of issues touching on this legislation—all amendments relevant to the consideration of this tax bill—but, again, those Senators who have offered those amendments will not have the opportunity to offer their amendments if cloture is invoked.

Mr. President, I think those reasons should be enough for every Member of this body to vote against cloture, because, if nothing else, this is supposed to be a deliberative body, and we are supposed to have the opportunity to talk about ideas, to really fully explore them, to talk about them in a public way so that the people who listen to these debates have a chance to know what it is that we are voting on. But this bill has not had that. In fact, what it sets up is another set of tax expenditures without any consideration of the implications or the impacts of that expenditure.

To use the term ''tax expenditure''—for the average citizen, the words ''tax expenditure'' do not have a lot of resonance, do not have a lot of meaning.

I want you to think about, for a moment, spending from two perspectives: Spending out of the front door and spending out of the backdoor.

Front-door spending includes appropriations, and everybody can relate to those. You see it on a bill. Bills that we pass, they say: We are going to spend this much for that purpose or this much for that purpose. The appropriations spending, front-door spending, is obvious. It is apparent. The public can understand it. It is simple. Everybody knows what the deal is, whether it is spending for a bridge or somebody's boondoggle. Appropriations for front-door spending is apparent and obvious spending.

This plan we are considering today goes in the other direction, of the non-obvious spending for what is called tax expenditures. We can debate tax expenditures for a while, but the point is, I call it backdoor spending because essentially what it is is it is spending that takes place when you carve out an exception for somebody who otherwise was paying taxes, where you say everybody has to pay taxes, but as to this little group here, taxes will not have to be paid. So that then means that everybody else who is left has to make up that little hole that is created. That is what we mean by loopholes. That is what we mean by tax expenditures. And this is such a tax expenditure. This is not only a tax expenditure, it is $4 billion tax expenditure.

I would have thought at a minimum we would have had a chance to have

this up in committee and have had to have witnesses testify on it and to have at least amendments on this floor. None of that has been made available with regard to this bill.

There are times, Mr. President, when tax expenditures really do make sense, where we take the position that it makes more sense to say, as to this universe of people, this little group should not have to pay taxes, this loophole serves a legitimate function and it is an efficient way to do or to effect whatever policy it is that we are trying to achieve. There are some times when it is efficient.

So for a moment, for purposes of this debate, let us take a look at the efficiency of this tax expenditure, whether or not the taxpayers who are going to have to make up this $4 billion difference, whether or not they will get the bang for their buck, whether or not it makes sense for us to spend money through the back door in this way.

The truth is that this plan will benefit only the wealthy. According to the Treasury Department, which has analyzed this proposed tax scheme and calculated what are called its distributional effects—that is to say, who gets the benefit of the tax benefit; what kind of bang for the buck do you get for this spending out of the back door?—70 percent of the benefits in this proposal would go to the top 20 percent of the income scale, that is to say, families with annual incomes of at least $93,222 would get the majority of the benefits in this bill. Fully 84 percent of the benefits would go to families making more than $75,000 a year.

The poorest families in this country, those in the bottom 20 percent of the income scale, would receive 0.4 percent of the benefits of this spending out of the back door.

Let me say that again: 0.4 percent, less than one-half of 1 percent, of the benefits go to the 20 percent of the population of this country who have the least money.

These bars on this chart here really set this out. These are not my numbers. These are Department of the Treasury's numbers. Quite frankly, we would have had a chance to debate this had the bill come up through committee in the normal and ordinary course of things. But since we did not get that chance, we just were kind of surprised with having to vote for cloture on this bill today. We have not really had a chance to thrash through these numbers.

But anyway, the Department of the Treasury tells us that in this legislation, the lowest 20 percent, as you can see, get the lowest amount out of this legislation. The highest income people get the highest amount. Families in the highest income quintile would reap $96 a year in benefits from this bill, that is to say, families with incomes over $93,000 a year. They would see $96 of benefits in an average year.

Those in the fourth quintile—those earning more than $55,000 a year—would see only $32 in benefits in a given year.

Families in the third income quintile—those earning at least $33,000—would get only $7 per year. So $7 for the middle-class families earning between $33,000 and $55,000 a year—$7.

Families in the first and second income quintiles—those earning less than $33,000—would get virtually nothing from this plan. And you can see that on the chart.

So really what you wind up with is a tax expenditure that creates a loophole, backdoor spending that will benefit rich people.

All of my colleagues who have had doubts about—and we have debated in other contexts the voucher plans, and this and that and the other, and how to approach education finance in these times. We need to have that debate because there is no question but that we have great challenges before us in terms of the reform of schools and providing reform of the schools so that this generation of children will have an opportunity at least as great as the last generation gave all of us in this Chamber.

At the core, this debate is about what kind of educational system are we going to have. I was a product of the Chicago public schools. I am proud to say that, because the public schools in Chicago gave me a quality education in a time when my parents certainly could not afford to send us to private schools. They did, from time to time, choose the private and the parochial schools in the area. And I went to Catholic school myself on a couple of occasions.

But the fact is that the public schools in my neighborhood were good public schools. So it was a legitimate set of choices. We had good public schools, good Catholic schools, good private schools. We could choose between good and good and good. So it was just a matter of the nuances of the educational opportunity that our parents wanted to give us that made the difference in their decisionmaking.

As we have gotten to this time, we are really challenged by the fact that there is not the kind of equal choice among and between educational opportunities for these young people. Very often—all too often—the public schools are troubled. Everybody who has given up on trying to fix public education, fix the public schools, says, ''OK. Fine. To heck with them. Let's go create something else. Let's go support something else. Let's go voucher out over here. Let's send our kids to the Catholic schools. And let's go to the private schools,'' or whatever.

They will come up with alternatives as opposed to confronting and facing what do we do about providing quality public education to every child that will allow every child the same opportunity, will allow every child a chance to climb up the ladder of opportunity. Because, after all, Mr. President, as I think everybody is aware, the rungs on the ladder of opportunity in this country are crafted in the classroom. The kind of education that a child gets not only is important to that child as an individual, but to our community as a whole.

It just seems to me that we cannot afford to lose a single child. We cannot afford to triage our educational system, cutting off the schools that have to deal with the problem cases, that have to deal with the poorest students, and letting everybody else go out and take advantage of tax loopholes to provide themselves education in another venue altogether.

Mr. President, the distributional effects of this tax expenditure really are easily explainable. Again, had we had a chance to talk about this in committee, we would have had that kind of debate. But to talk about why this works out this way, if you think about it, low- and moderate-income families, people that make $33,000 a year are having a hard enough time putting food on the table for their families as opposed to being able to just salt away and save an additional $2,500 a year, which is at the core of this proposal.

It should be apparent—maybe it isn't—the contradiction in this proposal. It calls itself ''an education individual retirement account.'' The fact of the matter is, retirement accounts are supposed to be for people in their sunset years, money put away for retirement when they can no longer work. If you say we are going to use that vehicle to let people use money for a lot of other things, then you are, by definition, defeating the notion that people will be able to save, put secure money away, and let it build up so they can retire on it.

This says, OK, we will use the vehicle for the retirement account model to let people save for private education. Assuming for a moment that made sense, again, what do you do when you have a situation where the people who need it the most get it the least? What do you do when people who are making $33,000 a year who can't salt away $2,500 a year for this, who can't build up the interest in the accounts? That is an important part of this—who can't build up the interest in these accounts. What happens to them in this situation? They wind up being left out in the cold.

If we are thinking about the bang for the buck for tax expenditures, this backdoor set of expenditures, it seems to me, it is the taxpayers who are going to be called on to help make up the difference with the loophole we have created, and they will get the least from it.

Mr. President, there is another whole set of issues in this bill that, again, had we been able to talk about it in committee we could have gone further in understanding the meaning of the actual language of the legislation. The bill defines ''qualified elementary and

secondary education expenses'' as ''tuition, fees, tutoring, special needs services, books, supplies, computer equipment . . . and other equipment, transportation, and supplementary expenses required for the enrollment or attendance of the designated beneficiary of the trust at a public, private or religious school.''

In addition, the bill provides a ''Special rule for home schooling'' so any of the above expenses qualify if the child is home schooled.

I just read it off, and I have the words in front of me, what does any of this mean? What does ''required transportation expenses for home schooled child'' mean? If you are staying at home, do you still get a transportation deduction? Does that mean a new car for mom and dad? What does that mean? We don't have enough information to make decisions about the $4 billion expenditure without having debate in this committee.

Now, given the broad nature of the language of the bill, the possibilities for abuse are almost limitless, except for one caveat: The ability to use these provisions and reap the benefits of this broad statute would be restricted, again, almost exclusively to the wealthiest Americans.

Now, it is OK to say we want to give rich people tax cuts. If that is the argument, that is fine. But it seems to me it is not altogether appropriate to dress it up and say that we are doing this for the poor children of America when, in fact, this is a tax subsidy for wealthy people. And they just got a tax cut. It would be different if they had not just gotten a tax cut.

An argument in the Finance Committee with the last bill—which I supported, the tax bill—was that we were cutting taxes at that time in ways that would benefit the wealthiest Americans. There are some people in the committee that didn't have a problem with that, who said the wealthiest Americans pay the most in taxes, they should get the most back. If that is the argument, that is fine. But it seems to me somebody ought to say that. The people ought to say that instead of wrapping it up in ''education reform terms'' when, in fact, the goal of educational reform, of saving our school system, will not be achieved.

I have other specific concerns with this legislation.

The bill attempts to limit the availability of these educational savings accounts to single-filers with annual incomes below $95,000, and joint-filers with annual incomes below $160,000. During the Ways and Means markup, however, the question was asked whether a wealthy taxpayer could avoid this limitation by making a gift to the taxpayer's child, who would then make the contribution to the education savings account. According to the staff of the Joint Committee on Taxation, the bill would permit such a shell game, as long as the child earned less than $95,000. They described the income limitations on the education savings accounts as ''porous.''

Mr. President, in addition to benefitting only the wealthy and being written in such as way as to be virtually unadministrable, there is yet another problem with this bill which leads me to believe we are considering this bill mostly for symbolic reasons. In order to meet the revenue figures required by the offset that has been chosen, the bill only allows contributions to be made to the new education IRA's for elementary and secondary education for the next 5 years.

Mr. President, the purpose of IRA's is to encourage long-term savings. The proposal before us today makes a mockery of this concept, by allowing contributions for only a 5-year period. In so doing, it also creates a situation where everyone who puts money into these accounts will need to hire accountants to figure out what they are allowed to do and how much they are allowed to various education and education-related activities.

The bill allows contributions of up to $2,500 for the first 5 years. These contributions, and the interest earned on these contributions, could then be withdrawn at any time to meet certain education expenses from kindergarten through college. After the first 5 years, however, the bill limits contributions to $500. These contributions, and the interest earned on these contributions, could then be withdrawn only to meet certain higher education expenses. Over a long period of time, the bill thus creates a situation where some amount of the interest that has accumulated in the accounts could be withdrawn for one purpose, while other interest that has accumulated concurrently could only be withdrawn for another purpose. To say that these accounts would be difficult to manage is an understatement.

Let me say this in closing, I encourage my colleagues to redirect this retreat from quality public education in this country. There is no question but that we have to reform the public school system. There is no question but that the Federal Government certainly needs to do more in terms of supporting elementary and secondary education. We are right now paying less than 6 percent of the cost of the public schools in this country, which is not fair. It is not fair to property taxpayers. It is not fair to local taxpayers. In the main, education funding comes out of the local property taxes all over this country. If you ask anybody what is the tax they hate the most, it is their local property taxes.

We are, for all intents and purposes, tying the ability to fund the schools to people who have fixed incomes and who really don't have the ability to pay more in property taxes. That is one of the reasons why the schools are troubled, frankly, in so many areas of this country. Those communities that have the least property taxes, that have the least ability to expand in that regard, have the most troubled schools. Why? Because you have tied education to fixed incomes or to declining tax bases.

We have a General Accounting Office study, in fact, that shows that the poorest areas in the country make the most tax effort to try to pay for their schools. It seems to me, Mr. President, that with all these issues to take up and with all of the challenges to reform public education so that every child in America can access a quality education, we ought to do that in the context of having open debate, not trying to shut off debate on something that, again, effectively only helps the wealthiest Americans.

I urge my colleagues to reject this retreat from public education, to reject this retreat from education reform, to oppose this measure, and to vote against cloture.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. I understand the leadership on the other side and the NEA are endeavoring to filibuster this proposal, but they will not succeed in the long run. This is going to happen.

I do want to respond quickly to several of the remarks of the Senator from Illinois. First, the figures from the Treasury Department have been ridiculed and rejected. They have absolutely no credibility. That is the same formula they used to try to discredit the other tax relief. They used imputed income —if you rent your house, that sort of thing.

The Joint Committee on Taxation says 75 percent of all these proceeds will go to people making $75,000 or less.

Ms. MOSELEY-BRAUN. Will the Senator yield?

Mr. COVERDELL. I cannot yield because of the time. I know the Senator will appreciate that.

I also want to point out that the formula that governs this account is the same one the Senator from Illinois voted for in the tax relief plan when the IRA saving account was set up for higher education. It is identical. The Senator from Illinois has already voted for this account. The distribution of the moneys is identical. In those accounts, like these accounts, 70 percent of it will go to families earning $75,000 or less.

The Senate and House have already expressed themselves on it. It is means tested. It is the same formula your President and my President requested be put in place. The same one that governs those accounts, you and I both voted for, as did the vast majority. It is the same formula on this account.

Now, the Senator has suggested this is something new. This is an IRA. They have been here for 17 years. The Senate already cast 59 votes for this account in the tax relief proposal. The House has passed it. This is not some new idea, snaking through the Halls of Congress. We have been dealing with IRA's for almost two decades.

The last point I make, and I understand the misunderstanding because of

some of the administration views, I want to remind the Senator that 70 percent of all these new resources which would supplement education will go to students in public schools. Public schools are going to be the big winner here. And 10.8 million families with children in public schools will use these accounts—so there will be an enrichment of the public school system—of the 14 million, so that means less than 3 million will be in private schools.

CLOTURE MOTION

Mr. COVERDELL. Mr. President, I now send a cloture motion to the desk to H.R. 2646.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on H.R. 2646, the Education Savings Act for Public and Private Schools:

Trent Lott, Paul Coverdell, Robert F. Bennett, Pat Roberts, Strom Thurmond, Gordon H. Smith, Bill Frist, Mike DeWine, Larry E. Craig, Don Nickles, Connie Mack, Jeff Sessions, Conrad Burns, Lauch Faircloth, Thad Cochran, and Wayne Allard.

Mr. COVERDELL. I yield the balance of my time to the distinguished colleague from New Jersey.

Mr. TORRICELLI. I thank the Senator from Georgia, Senator COVERDELL, for yielding time to me. I am very proud to join with him in offering this proposal today.

Mr. President, I think there is a growing awareness in our country that the status quo in education is no longer good enough, that there is a need for fundamental reform in the financing and the standards and our approach to educating our children in the grade school and high school levels.

This legislation offers the promise of a new beginning in how we approach educational reform. In a time of limited budgets, as we seek to balance the Federal budget, we are marshaling private resources. At a time when families have been separated from the challenge of educating their own children, we are challenging families to get involved again. At a time when some are fighting between private education and public education, we seek to help both.

Senator COVERDELL and I do this in what I think is an imaginative approach, what really is no more than an extension of what President Clinton proposed to do and achieve with his HOPE scholarships for colleges, we do for high schools and grade schools.

We do it in the following fashion: It is a challenge to all families of middle-income status—$95,000 and below. From the time of the birth of your child, you, uncles, aunts, grandparents, can put into a tax-free account, $10, $20, $100 a month, put money aside to prepare for the education of your child. In private school, parochial school, if you choose a yeshiva, or in public schools—indeed, the Joint Tax Committee has estimated 70 percent of this money will go for public school students—by allowing families to plan, recognizing that a public school education, is no longer a matter of 8:30 in the morning to 3 o'clock in the afternoon with just a teacher. The whole family has to get involved.

Use this money to buy a home computer, pay for transportation after school so a student can get tutoring, extracurricular activities, or hire a public school teacher after school or on weekends to get involved in tutoring. It is the marshaling of family resources, family involvement, to help either complement that public education or allow for a private education.

Now, the question becomes, is it wrong to even use these private resources to help with a private education? Unlike Senator COVERDELL, I have, through the years, opposed the use of vouchers, because I thought it was a diversion of public resources at a time when the public schools cannot afford the loss of resources. I had constitutional reservations. On vouchers, we can all differ. This is not a voucher. There is not a constitutional issue because this is private money, not Government money. There is not an issue of compromising current resources for public education because this is private money, and it is new money. Not a single dollar is lost from the public schools by the use of these IRA's. But is it needed? For those who do not want to address the problem of private education, does it really help the 90 percent of American students who go to public schools? Absolutely. President Clinton has put a challenge down to the country: By the year 2000, every American school should be on line. But American students do their homework and research at home. Seventy percent of American students do not have a computer in the home. Eighty-five percent of black and Hispanic students do not have a computer at home. Under Mr. COVERDELL's proposal, that would be allowed from these accounts.

Mr. President, I thank the Senator for yielding the time. I am very proud to join with him in offering the A-plus accounts.

I yield the floor.

The PRESIDING OFFICER. All time has expired.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture on H.R. 2646.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on H.R. 2646, the Education Savings Act for Public and Private Schools.

Trent Lott, Paul Coverdell, Robert F. Bennett, Pat Roberts, Strom Thurmond, Gordon H. Smith, Bill Frist, Mike DeWine, Larry E. Craig, Don Nickles, Connie Mack, Jeff Sessions, Conrad Burns, Lauch Faircloth, Thad Cochran, and Wayne Allard.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on H.R. 2646, the A-plus education bill, shall be brought to a close?

The yeas and nays are required under the rule, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Minnesota [Mr. WELLSTONE] are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote ''no.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 56, nays 41, as follows:

[Rollcall Vote No. 288 Leg.]

YEAS—56

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

NAYS—41

Akaka	Durbin	Landrieu
Biden	Feingold	Lautenberg
Bingaman	Feinstein	Leahy
Boxer	Ford	Levin
Breaux	Glenn	Mikulski
Bryan	Graham	Moseley-Braun
Bumpers	Harkin	Moynihan
Byrd	Hollings	Murray
Chafee	Inouye	Reed
Cleland	Johnson	Reid
Conrad	Kennedy	Robb
Daschle	Kerrey	Sarbanes
Dodd	Kerry	Wyden
Dorgan	Kohl	

NOT VOTING—3

Baucus	Rockefeller	Wellstone

The PRESIDING OFFICER. On this vote, the yeas are 56, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

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

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

Mr. LOTT. Mr. President, I ask unanimous consent that I be able to proceed for 5 minutes notwithstanding rule XXII.

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

ORDER OF PROCEDURE

Mr. LOTT. I do this, Mr. President, just so that Senator DASCHLE and I can explain what is transpiring.

As you know, we are prepared now to go to the cloture vote on the DOD authorization conference report. However, the interested parties on both sides of the aisle and on both sides of the issue involved, regarding the depots, wanted a few minutes to talk about what would be the situation beyond this, and so there are a lot of conversations going on now in the back of the Chamber. I would like to give them a few more minutes to discuss the various options. As soon as we then call off the quorum call, we would proceed to a cloture vote.

It is my thinking that we would probably go to this cloture vote, but it is going to be a few more minutes before we can actually proceed to that vote. But we will not let it languish very long. The interested parties asked for a few minutes to talk. That is what we are doing. I realize Members have other commitments. But we will, probably within the next 15 or 20 minutes, have some final decision, and then we will know whether we will have a vote on cloture at that point or not.

Mr. THURMOND. Mr. President, in a few moments, the Senate will vote to invoke cloture on the Defense authorization bill for fiscal year 1998. As all of you know, we have had a difficult time getting to this point. After months of negotiating on the depot maintenance issue, we finally achieved a breakthrough when those Members of Congress who have depots agreed to a compromise heretofore believed to be unachievable.

Those Members who have depots gave up on issues extremely important to them substantively and politically. At that time, those of us who had worked over many months to achieve such a compromise believed that we could finally put this very divisive issue behind us. It was simply unthinkable to us that after those with depots had come so far toward the other side's position that the Senators from Texas and California would oppose this compromise. They have always said they only wanted the opportunity to compete. This compromise gives them that opportunity on what the Armed Services Committee believes is clearly a level playing field.

All 18 members of the Armed Services Committee have signed this conference report indicating their support of the compromise. The ranking member of the committee, Senator LEVIN, supported the Senators from Texas and California up to the point when this compromise was negotiated. He and his staff were totally involved in drafting and negotiating the compromise. Senator LEVIN and I join in total support of this compromise which is fair and equitable to all parties.

This bill is important to the young men and women who serve in our military forces. The bill includes pay raises and increases to special incentive pay including vital aviator bonuses. Provisions in this bill affect every aspect of our national defense including quality of life initiatives, modernization, and readiness. I remind all Senators that all military construction projects require an authorization as well as an appropriation and cannot be executed without this bill.

All members of the committee support this bill. The House has already passed it by a veto-proof majority of 286 to 123. The leaders of the Defense Department have indicated that they can make this compromise work and that they need this bill passed. It is hard for me to believe that any Senator would oppose and delay the entire Defense authorization bill at a time when American troops are deployed in Bosnia and trouble appears to be brewing again in the Middle East.

I strongly encourage all Senators to vote to invoke cloture on this bill. We must send a strong signal to the White House to demonstrate to the President that this bill which is so important to our national security should be passed now. I also ask the support of all Senators to defeat any further attempts to delay this bill. Show the young men and women in uniform serving our Nation around the world that we are strongly behind them.

I yield the floor. I observe the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BENNETT). Is there objection?

Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I move to waive rule XXII to use a couple minutes of my leader time.

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

EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

Mr. DASCHLE. Mr. President, I thought I would just take a moment while we were negotiating here on the next vote and our schedule, to comment briefly on the cloture vote that we have just taken. It is clear that within our caucus there are varying positions with regard to the Coverdell bill. Obviously, it is our desire to accommodate all of our colleagues as we attempt to work through those positions, for we recognize the importance of a good debate about the issue.

The bill, as we all know, was brought to the floor in an unusual set of circumstances. It passed the House and was not sent to the Finance Committee as most tax legislation is. It was sent directly to the desk and pulled from the desk for consideration. And a cloture motion was filed immediately, precluding Senators' rights to offer amendments, including relevant amendments. So it was on the basis of procedure, and our inability to offer amendments, that many of my colleagues have chosen to oppose cloture this morning.

It is my hope that we can work with our colleagues to come up with an agreement that will allow the consideration of amendments. Democrats need to protect their rights to offer amendments regardless of the legislation, but especially on matters relating to tax matters. And that is, in essence, the concern that we express in our opposition to cloture this morning. Let's have a good debate. Let's offer amendments. Let's have an opportunity to consider alternatives. But let's ensure that the normal process, the regular order, is adhered to as we take up matters of this import.

So that is, in essence, the situation we find ourselves in this morning. On the basis of procedure, given our inability to offer amendments to the bill, many of our colleagues found it necessary to oppose cloture. It is my hope that over the course of the next couple of days we can come to some resolution with regard to amendments and therefore have the kind of debate we should have—the opportunity to discuss this issue and consider the bill in more detail. I believe that ultimately we can resolve this impasse.

I thank Senators for giving me the opportunity to provide that explanation. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LOTT. I think we are ready to go with the regular order.

CLOTURE MOTION

The PRESIDING OFFICER. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to the conference report to accompany H.R. 1119, the National Defense Authorization Act:

Trent Lott, Strom Thurmond, Wayne Allard, Pat Roberts, Judd Gregg, Robert F. Bennett, Rod Grams, Spencer Abraham, Don Nickles, John Ashcroft, Rick Santorum, Tim Hutchinson, Paul Coverdell, Bob Smith, James Inhofe, Chuck Hagel, and John Warner.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to the conference report to accompany H.R. 1119, the National Defense Authorization Act, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Florida [Mr. MACK] and the Senator from Arizona [Mr. MCCAIN] are necessarily absent.

Mr. FORD. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Minnesota [Mr. WELLSTONE] are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. WELLSTONE] would vote ''aye.''

The PRESIDING OFFICER (Mr. BOND). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 93, nays 2, as follows:

[Rollcall Vote No. 289 Leg.]

YEAS—93

Abraham	Enzi	Levin
Akaka	Faircloth	Lieberman
Allard	Feingold	Lott
Ashcroft	Feinstein	Lugar
Bennett	Ford	McConnell
Biden	Frist	Mikulski
Bingaman	Glenn	Moseley-Braun
Bond	Gorton	Moynihan
Boxer	Graham	Murkowski
Breaux	Gramm	Murray
Brownback	Grams	Nickles
Bryan	Grassley	Reed
Bumpers	Gregg	Reid
Burns	Hagel	Robb
Byrd	Harkin	Roberts
Campbell	Hatch	Roth
Chafee	Helms	Santorum
Cleland	Hutchinson	Sarbanes
Coats	Hutchison	Sessions
Cochran	Inhofe	Shelby
Collins	Inouye	Smith (NH)
Conrad	Jeffords	Smith (OR)
Coverdell	Johnson	Snowe
Craig	Kempthorne	Specter
D'Amato	Kennedy	Stevens
Daschle	Kerrey	Thomas
DeWine	Kerry	Thompson
Dodd	Kyl	Thurmond
Domenici	Landrieu	Torricelli
Dorgan	Lautenberg	Warner
Durbin	Leahy	Wyden

NAYS—2

Hollings	Kohl

NOT VOTING—5

Baucus	McCain	Wellstone
Mack	Rockefeller	

The PRESIDING OFFICER. On this vote, the yeas are 93, the nays are 2. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998—CONFERENCE REPORT

MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

The motion to proceed was agreed to.

Mr. LOTT. Mr. President, for the information of all Senators, the Senators involved in the depot issue with respect to the Department of Defense authorization conference report have reached an agreement for consideration and adoption of the conference report on Thursday, November 6.

Having said that, I thank all Senators for their cooperation. We did just then agree to a motion, and the conference report is before the Senate.

UNANIMOUS-CONSENT REQUEST—S. 1269

Mr. LOTT. I now ask unanimous consent the Senate turn to S. 1269, the fast-track legislation.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. I object.

RECIPROCAL TRADE AGREEMENT OF 1997—MOTION TO PROCEED

Mr. LOTT. In light of the objection, I now move to proceed to S. 1269, and send a cloture motion to the desk.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provision of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to calendar No. 198, S. 1269, the so-called fast-track legislation.

TRENT LOTT, BILL ROTH, JON KYL, PETE DOMENICI, THAD COCHRAN, ROD GRAMS, SAM BROWNBACK, RICHARD SHELBY, JOHN WARNER, SLADE GORTON, CRAIG THOMAS, LARRY E. CRAIG, MITCH MCCONNELL, WAYNE ALLARD, PAUL COVERDELL, and ROBERT F. BENNETT.

Mr. LOTT. Mr. President, this cloture vote will occur on Tuesday, and I ask the mandatory quorum under rule XXII be waived.

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

Mr. LOTT. I now withdraw the motion.

The PRESIDING OFFICER. The motion is withdrawn.

MORNING BUSINESS

Mr. LOTT. I ask unanimous consent there now be a period for morning business until the hour of 2 p.m. with Senators permitted to speak for up to 5 minutes each.

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

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

THE EDUCATION OF OUR CHILDREN

Mr. D'AMATO. Mr. President, I rise to speak again on an issue of, I think, paramount importance, and that is the education of our children. Mr. President, unless we bring about fundamental reform in education, we are just going to continue to nibble at the margins. We are going to have great intellectual discussions and not be able to help our children.

The needs in our schools are great. We need better textbooks. We need to update computer facilities. We need to insist on teachers teaching the basics. And we need merit pay for good teachers.

Our children deserve an oasis of calm in order to learn. We have to be able to get violent and disruptive juveniles out of the classroom, and ''fast track'' them out of the classroom. We hear about fast track for trade; what about fast tracking violent, disruptive students out of the classroom?

Most importantly, we need to listen to parents in the local communities. This afternoon, I am going to touch on a few examples, horrendous examples, that all too often are being repeated in the educational systems throughout this country. Time after time, we see the education system supporting administrators, school principals and teachers at the expense of our children. We have to encourage parental involvement in education. When parents speak out, they have a right to be heard. They have a right to be listened to.

One of the things that parents are clearly calling for is an end of a system of lifetime tenure, lifetime job protection regardless of whether the teacher or the school principals are doing the job. Eliminating tenure and reforming it is a desperately needed measure. The tenure system guarantees a lifetime job to teachers and school principals, regardless of their performance.

Let me give you examples of how children suffer. These are real cases, these are our children. In junior high school 275 in Brooklyn, reading school scores have plummeted 21.5 points in the past 5 years. Sadly, this is a school that is failing our children, and they are getting hurt.

So parents in the community, recognizing that problem, came together. The parents and the local school board

wanted to deny tenure to the junior high school 275 principal, Priscilla Williams. I think we ought to applaud those parents for coming together and becoming involved and speaking out, as well as the local school board.

Instead of listening to the parents, instead of listening to the school board, the local superintendent granted permanent tenure to principal Williams. While those scores were plummeting, the school's principal was rewarded with a lifetime guarantee, a lifetime job. So instead of correcting the situation and bringing in a principal who would turn that around, we now have children being held captive. That means these children will continue to suffer, and the school's leaders cannot be held accountable. The scene is repeated throughout the system, unfortunately.

Let's take a look at another district, Brooklyn's district 23. The school board pleaded—pleaded, and these are the elected representatives—to block tenure for five principals at failing elementary and junior high schools. What is their motivation? Their motivation is to give their kids a better educational opportunity. Mr. President, sadly, all five were granted tenure anyway. So what does that mean? That means thousands of children are going to be trapped in a system that is failing them.

Parents know that the tenure system rewards failures. Why don't we listen to these parents who are crying out for reform, who are crying out to give their children a better education? They know that the business-as-usual tenure system is hurting their children. Instead of granting tenure to Principal Williams at junior high school 275 where the reading scores are dropping like a rock, she should have been fired, replaced, and they should have brought in somebody who had the educational experience and the ability to raise those scores.

As tragic as the failing levels are at junior high school 275, there is something more devastating that took place more recently at another school. Again, these are real children involved. This was a school in the Bronx, PS 44, where two 9-year-old girls were brutally sexually assaulted by four boys——9-year-old children at school. The girls reported this incredibly horrendous assault to their teacher. The teacher, in turn, reported it to the school principal, Anthony Padilla. Now, what did Mr. Padilla do? Did he call the police when a teacher reports an assault on two 9-year-old children? No. Did he take any steps to assist the victim, to contact the parents? No. But he did send a letter. He sent a letter to the parents which stated, ''No inappropriate behavior took place.'' Imagine that—doesn't call the authorities but sends a letter to the parents saying, ''No inappropriate behavior took place.''

Well, the police did investigate the case. Juveniles have been arrested and charged with this horrendous act. But what was done with or to the principal as a result of his failure to confront and deal with this situation in an orderly manner, a brutal attack against two 9-year-old girls? I'll tell you what happened—he was reassigned to a different administrative position within the district.

Now, let me point out something else. Padilla didn't even have tenure. He has previously been denied tenure. Why is he being protected? Why is he being kept in such a position of such responsibility where the lives of hundreds of youngsters are under his control? You have a system that protected him when he should have been fired. It is another example of a system supporting administrators and principals instead of parents and children.

Now, Mr. President, parents know that a principal who doesn't respond to violence within a school should be fired and not just reassigned. He should have been fired. But he is reassigned. Why? Because we have a system that is more interested in protecting the rights and the perks and the privileges and has become a hiring hall. It is an employment center, as opposed to being a center of learning, of knowledge. Something is seriously wrong when they are more concerned with the perks and privileges of the union members, regardless of how they are performing.

Mr. President, let's set the record straight. I believe the vast number of our teachers are good, are dedicated, are great professionals. We should reward them and we should pay them for that and we should recognize that. But the incompetent who are receiving lifetime job security are eroding this system both at the administrative level and, yes, in the classrooms. Something is seriously wrong when parents try to get involved in their children's education—in the examples I pointed out to you, where the school boards are begging for changes—and the system refuses to respond to them.

That is exactly what has happened when school principals are granted lifetime tenure over the objections of parents and in spite of the record of the failing schools. The tenure system has kept some principals in schools for 25 years while the academic performance has continually declined. That is wrong and has to be stopped.

I want to congratulate the parents for getting involved in their children's education. Nothing is more important. We have an obligation to reform our educational system. We have to get rid of today's system that ignores parents and rewards failing principals with lifetime tenure and replace it with a new system, a system that listens to parents and rewards their involvement and thinks about the education of the children first, not the perks and privileges of those who work in the system.

I yield the floor, and I thank my colleagues for granting me this additional time.

Mr. DORGAN. I ask unanimous consent to proceed for 10 minutes in morning business.

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

FAST TRACK

Mr. DORGAN. Mr. President, a few moments ago the majority leader came to the floor and filed a cloture motion on what is called the motion to proceed to the fast-track trade authority legislation that we will consider beginning next week in the U.S. Senate. I want to make comment about that, on the issue of fast-track authority.

It seems to me it does not serve well the interests of this country to try to fit into a small crevice, at the end of the first session of this Congress with only days left, a debate about international trade.

What is our situation in trade in this country? Well, it is not a very pretty picture. We have the largest trade deficit in the history of this country right now. We have huge and growing trade deficits with Japan. This year, it is expected to total between $60 billion to $65 billion. We have a mushrooming trade deficit with China, this year expected to reach close to $50 billion. We have an ongoing trade deficit with Mexico and Canada. We have a flood of subsidized goods coming into our country that I am convinced violates the antidumping laws of this country, undercutting our producers and undercutting our farmers. Yet, nothing is done about it.

We are not winning in world trade. First of all, I think we are losing because our trade agreements have been negotiated largely as foreign policy instruments. Secondly, the trade agreements that do exist, which could be beneficial to this country, are not enforced. You can point to trade agreement after trade agreement with Japan, for example, and discover that no matter what the agreement is, it is not complied with by the Japanese and not enforced by the United States.

The reason I take the time to mention this today is that we face very significant trade problems in this country. We have a daunting, growing trade deficit which has contributed now in the aggregate to about $2 trillion in our current accounts deficit. This deficit will be and must be repaid at some point in the future with a lower standard of living in this country.

This is the other deficit. We have spent many months and many years talking about the budget deficit, and have wrestled that budget deficit to the ground. But this other deficit, the trade deficit, is growing. Nobody seems to care about that.

The request comes now to Congress for fast track from the President saying: Let us go out and negotiate new trade agreements. I say let's solve the trade problems that exist from the old trade agreements before we rush off to make new trade agreements.

In recent years, we made a free trade agreement with Canada. What happened? A flood of Canadian grain has come down our back door, undercutting our farmers. This is costing North Dakota alone, according to a recent North Dakota State University study, $220 million a year in lost revenue. This grain is coming from a state trading enterprise in Canada that would be illegal in this country.

We had a trade agreement with Mexico. Prior to that, we had a $2 billion trade surplus with Mexico. Now it is apparently a $16 billion trade deficit with Mexico. We now import more automobiles from Mexico to the United States than we export to all of the rest of the world. A recent study by the Economic Policy Institute says that we have lost 395,000 jobs in America as a result of the trade agreement with Mexico and Canada called NAFTA. This trade of ours is not moving in the right direction. It is moving in the wrong direction.

We should have a debate about trade policy, but it ought not be a debate that is tried to be fit into a narrow crevasse at the end of this session. I will bet as I stand here today that we will see the majority leader come to the floor in the days ahead trying to restrict amendments, limit amendments and debate, and shortchange the American people on the opportunity to have a full, thorough, and thoughtful debate about this country's trade policy. Just as sure as I am standing here, I know in a matter of 1, 2, 3, or 4 days, we will hear them on the floor saying, ''We don't want amendments. We can't have you taking up that much time.''

In fact, when the fast-track trade authority bill was passed out of the Senate Finance Committee, I am told it was done in 2 minutes. No amendments. Just minutes, no amendments, no debate. That is not the way this body ought to deal with the important subject of international trade. This is a critically important question to the economic health of this country. It is a question of who will have the jobs in the future, which economies will grow in the future, and who will have opportunity in the years ahead?

I hope that, as we head toward next week and begin discussing this, we can prevail upon the majority leader and others to understand that this must be a full debate. I have plenty of amendments I want to offer. I know other colleagues have some, and I expect and hope we will have that opportunity in the coming week.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. DORGAN. I will be happy to yield.

Mr. BYRD. The Senator has indicated that the administration wants to go out and negotiate additional agreements. What is to keep them from it? They have that authority now. They can go out and negotiate. They are negotiating now. There is nothing here that anybody is doing to keep the administration from negotiating additional agreements, is there?

Mr. DORGAN. The Senator is absolutely correct. This administration says they have negotiated nearly 200 trade agreements in the last 5 years—200 of them. Well, why didn't they need fast track to do that? Because those agreements were mostly bilateral trade agreements in which they weren't trying to change underlying U.S. law. Fast track gives them the opportunity to go out someplace with some negotiators and close the door, have a negotiation outside the purview of the public and propose changing underlying U.S. law. Then fast track says when you come back here to the U.S. Senate, nobody, no Member of this body, has an opportunity to have a voice in changing that agreement that was made behind closed doors.

Mr. BYRD. So the fast track has to do with the operations here within the Senate and the House.

Mr. DORGAN. The Senator is absolutely correct about that.

Mr. BYRD. The administration has the authority right now to negotiate additional agreements and is negotiating additional agreements.

Mr. DORGAN. That's correct. The administration talks about an agreement with Chile. Go negotiate an agreement with Chile. Get an airplane ticket for 1 o'clock. You can do that. Nothing prevents a negotiation on trade with Chile—not this fast-track authority or lack of it. You can negotiate a trade agreement with Chile if you want to.

But, if you want to change underlying law, you have to bring it back to the Congress and get the permission of Congress to do that. The Senator makes an important point. There is nothing that prevents trade negotiations from occurring without fast-track authority. In fact, the administration says it has now completed over 200 trade agreements in the last 5 years.

Mr. BYRD. The fast track means that the Senate and the House are supposed to bind and gag themselves and not talk and not offer amendments, is that correct?

Mr. DORGAN. That is the procedure. That is correct.

Mr. BYRD. No amendments in this body. That is not what the Constitution says. The Constitution says that the Senate may offer amendments to revenue bills, as on other bills, as on other legislation. So that is where the fast track comes in.

Do we want to bind and gag ourselves and not be able to speak for our constituents and speak for our country? Do we want to illuminate the listening public as to what is really going on here? Is that what we are talking about? Fast track means we will hear nothing, say nothing, see nothing, right? We will offer no amendments. We can't do that on behalf of our constituents in the next 5 years; is that right? Am I right?

Mr. DORGAN. Yes, the Senator is exactly right. Fast-track authority means that the Congress says to a President, you negotiate a trade treaty or agreement, bring it back to the Congress, and we agree to restrict ourselves to be unable to offer any changes or any amendments of any kind. That is what the Congress is doing.

Mr. BYRD. Right.

Mr. DORGAN. To give you an example of that, they negotiated a trade agreement with Canada under fast track. I was then serving in the other body on the House Ways and Means Committee, which has 35 votes. They brought that trade agreement to the Ways and Means Committee. The vote was 34–1 to approve it. I was the only one to vote to disapprove it. We weren't able to offer any amendments. It went to the floor of the House, and I led the opposition to it. I lost by 20 or 30 votes. No amendments.

Now, what happened in the last 4 or 5 years with Canada? The deficit has doubled. We have a flood of this unfairly subsidized grain coming in, undercutting our producers. Everybody understands it is unfair trade, and you can't do a thing about it. We have folks that crow about it from time to time, but they don't lift a finger to do anything about it.

That is what is wrong with these kinds of procedures. We should have been able to amend that treaty to make sure that if a trade agreement with Canada is contemplated, we have the ability to solve a problem if a problem exists. But they have pulled all the teeth now, so there are no teeth in this ability to reconcile and deal with problems. Now we have these trade agreements where the deficits keep ratcheting up. We have unfair competition for our producers, and jobs are leaving our country. As I said 395,000 jobs left our country to Mexico and Canada. It doesn't make any sense for us to tie our hands in this way.

Mr. BYRD. In a manner, this is just a continuation of the siphoning off of the legislative powers, as we saw in the Line-Item Veto Act. It was siphoned away. As a matter of fact, we just gave legislative power to the President. Aside from that subject, that is what is being done here. We are being asked to give up the people's power under the Constitution to legislate, to amend, and to debate. In other words, we are just to buy a pig in a poke and are not even supposed to look inside the poke—just rubberstamp whatever the administration sends up here.

Mr. DORGAN. But we know there is a pig in the poke.

Mr. BYRD. There is something in the poke; I am not sure what is in the poke. But I am not willing to bind and gag myself. I will be forced to do that, of course; they will do that, but we will be kicking and screaming.

This administration wants more and more power, and other administrations have been the same. They have all been the same in wanting this fast track. But I compliment the Senator. I salute him for leading this fight. I am opposed

to fast track, and I will be there when the roll is called. I thank the Senator.

I ask unanimous consent that the time I have taken of the Senator's 10 minutes not be charged against the Senator.

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

Mr. DORGAN. Mr. President, the Senator from West Virginia has long been concerned and interested in international trade. I very much value and appreciate his support. It is not the case that the Senator from West Virginia, myself, and others, who believe that fast track is inappropriate and our trade strategy has not worked believe we should put walls around our country or restrict international trade. I think we ought to expand it.

I say this to those folks who talk about fast track: If you want to be fast about something, do something fast, put on your Speedo trunks and do something quickly, and start to quickly solve the trade problems we have. I can cite a dozen of them that undercut American jobs and American producers, workers, and farmers. If you want to be fast about something, let's be fast about starting to solve a few of these problems.

Just demonstrate that you can solve one; it doesn't have to be all of them. Demonstrate that this country has the nerve and will to stand up and say to other countries: If our market is open to you, then your market has to be open to us. We pledge to you that we will be involved in fair trade with you. We demand and insist that you be involved with fair trade practices with us. If not, this country has the will and the nerve to take action.

That is all I ask. If you want to be fast, don't come around here with fast track, come around with fast action to solve trade problems. Show me that you can solve one of them just once. Then let's talk about trade once again.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

(The remarks of Mr. DORGAN pertaining to the introduction of S. 1357 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

RESTRUCTURING THE INTERNAL REVENUE SERVICE

Mr. KERREY. Mr. President, I was very encouraged to read in this morning's newspaper the majority leader's comments about the agenda for the rest of the session. An agreement has been reached on bringing up campaign finance reform next year.

On the list of things that the majority leader had was taking action to restructure the Internal Revenue Service. It was a very controversial debate over one proposal that Congressman PORTMAN, Senator GRASSLEY, Congressman CARDIN, and I introduced a couple of months ago dealing with a proposed public board of directors. A lot of attention was paid to that. Unfortunately, in the process of paying attention to that, we lost sight and a lot of people lost sight of some of the other things that we are going to legislate on that are terribly important.

I was pleased to see, since the House has passed it, that the majority leader indicated that is one of the things he is going to try to get done sometime during the rest of the year. There is broad consensus on some of the things which we know will improve the operational efficiency of the Internal Revenue Service.

Chairman ROTH's Finance Committee had 3 days of hearings on a separate set of issues dealing with privacy, dealing with the power of the Internal Revenue Service to demand action on the part of taxpayers.

These are very important issues, and the chairman has indicated his desire to take up next year the consideration of those issues. I have great respect for Chairman ROTH and his desire to bring attention to the Internal Revenue Service. His intent and his sincerity lead to, I believe, the citizens of the United States seeing that change is needed. However, I believe action is needed yet this year in order to give the new IRS Commissioner, Mr. Rossotti, the authority he needs to be able to manage this agency.

One of the things we found in our restructuring commission when we began in 1995 was that the General Accounting Office disclosed that nearly $4 billion worth of modernization and purchase of computers and software had not produced the desired result and had essentially been wasted. We began our effort in 1995. We held hearings in 1996 and 1997—12 public hearings, thousands of interviews with current employees and taxpayers and professionals that help and assist taxpayers.

We reached our decision in our restructuring commission that the current law was unacceptable, that it would not allow us to go from where we are today to where citizens need to have us go.

Today, 85 percent of Americans voluntarily comply with the Tax Code. That is down from 95 percent 30 years ago. The real test is what does the taxpaying citizen think of the existing system? Their confidence is deteriorating rapidly, and it is deteriorating as a consequence of the law. The law makes it impossible for the Commissioner to manage that agency the way we all want the Commissioner to be able to manage the agency.

We proposed legislation. The legislation has now been passed by the House and has the full support of the President. The President is now calling upon us to take action. As I said, I am hopeful that the majority leader's comments in this morning's paper are an indication that there is still a chance that we can get this done.

We found in our commission deliberations a number of problems that are addressed in this legislation.

First, as I said, the Commissioner can't manage the agency. He can't make decisions to fire. He can't make decisions to reward based upon performance. He can't make decisions to reorganize. He can't make decisions to run the Agency. The law doesn't allow it. You can get whoever you want to come in—and I think the President has found an exceptional individual from the private sector who understands technology and who understands how to manage an organization—but the law does not give Mr. Rossotti the authority that Mr. Rossotti is going to need to manage the Agency.

We also found that there is inconsistent oversight both from the executive branch and from the legislative branch. So we propose not only a public board of citizens that would have responsibility for developing a strategic plan, but we also propose to create twice a year a joint hearing of appropriations and authorizers and government operations people to give not just the oversight but give us an opportunity to achieve consensus on what the strategic plan is going to be. Twice a year that would be required in order to achieve consensus and, most importantly, achieve consensus for the purpose of being able to make the right investments in technology, being able to sustain the effort over a period of time to do the improvement of operations that are necessary.

It is very difficult to operate the IRS with 200 million tax returns a year. We are heading into the filing season right now. It is an unimaginable problem to try to manage this Agency and satisfy all of the various demands and answer all of the various questions that taxpaying customers have as well as being able to go out and enforce the law against a relatively small percentage of people who are not willing to voluntarily comply with the law; not to mention as well the difficult challenge of adjusting the software and rewriting software for the millennium problem that needs to be solved in the next 18 months in order to be prepared on December 1, 1999, for what will occur, which is the computers will no longer recognize 99 as being 1999—a very big problem for a small agency, and an enormous problem for an agency like the IRS that will be in the middle of a filing season, if their computers go down and they are unable to recognize that number.

So there is an urgency to get this law changed so that this Commissioner can have the authority to manage, the authority that is needed so the Commissioner has the kind of oversight that is needed, and in order to have any chance at all of being able to manage this Agency, to reduce the current problems and avoid future problems as well.

The legislation provides incentives for electronic filing. We found in our

examination of the Internal Revenue Service that there was a 25-percent rate of error in the paperwork. In electronic filing the rate of error was less than 1 percent. Errors mean dollars both to the filers as well as the organization that is being operated. There is a tremendous opportunity for saving money both from standpoint of the taxpayer in what it costs to comply with the code as well as the taxpayer from the standpoint of operating the IRS.

We believe, and everybody who has looked at it believes, that electronic filing is a tremendous way to save money and satisfy the demand of the customer to close this breathtaking gap that currently exists between what a private sector financial service agency can do and what the IRS can do. All of us understand what an ATM card is. All of us have seen what the private sector has done to reduce the amount of time needed to do a transaction with a financial institution. The IRS has been unable to keep pace with what the private sector is doing, and we think that electronic filing is not only likely to save money but will also increase people's confidence that the IRS is closing the gap between what the private sector is able to do and what they are able to do.

We have a section in there on taxpayer rights. We do not address the so-called 6103, the privacy issues, that Chairman ROTH and Senator MOYNIHAN did with the Finance Committee, but there are a number of things where we are absolutely certain that, if we make some changes, the taxpayer will have increased authority. We give the taxpayer advocate more independence, moving them outside the IRS; it is very difficult to imagine that person doing the job they need to do if, after they criticize the IRS, they then depend on the IRS personnel system in order to be advanced.

We make some additional changes on the burden of proof. We think having modified it slightly does not produce a situation that will result in a deterioration of our ability to get voluntary compliance or impose a burden upon individuals who are willing to comply in a voluntary fashion.

We provide as well, Mr. President, some changes that will I think address the problem of a complex Code, not by reforming the Tax Code but by putting the Commissioner at the table and giving the Commissioner the authority to comment either on proposals made by the President or by the Congress as to the cost of compliance and putting in a complexity index that would give us some kind of idea of cost anytime we have some new change we want to make.

Over and over and over we heard from witnesses coming before the Commission who said to us almost nothing is going to work if Congress continues to make the Code complex. If we continue to add provisions that add to the already estimated $200 billion that the private sector taxpayer pays in order to complete their forms, if we continue to make the Tax Code more and more complicated, it is going to be very difficult to manage the Agency for the purpose of reducing the customer dissatisfaction and increasing the voluntary compliance with the system.

Mr. President, I am very encouraged, and I hope we are able, in fact—there is now 13 of the 20 members of the Finance Committee who are supportive of this legislation. My guess is it will pass the Senate with a very large number. I have heard very few people raise objections now that we have reached agreement with the administration. I have heard very few people say this legislation would not help an awful lot. There will be 200 or more collections notices a day going out between now and the time that we act, 800,000 notices of either audits or other kinds of requirements sent to the taxpayers every single month. There is an urgency to act on this.

Are there other things that need to be done? The answer is yes. Will it solve every problem? The answer is no. But it will give the Commission the tools the Commissioner needs to manage the agency. It will change the oversight and make it possible for us to get shared and agreed consensus on where it is we are going to go. It will give the taxpayer more authority and more power than they currently have. And it will enable us to assess whether or not some new tax idea that we have is going to cost us more to implement than we are going to generate in revenue as a result of the change in the Code.

So I am very encouraged by the majority leader's comments in the paper this morning, and I am hopeful in that bipartisan way, in a big bipartisan way we can pass in the Senate, conference with the House, and send to the President for his signature a change in the law that would give taxpaying citizens increased confidence not only that they are going to get a fair shake but that Government of, for, and by the people works.

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

The PRESIDING OFFICER (Mr. FRIST). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

SMALL BUSINESS PROGRAMS REAUTHORIZATION AND AMENDMENTS ACT OF 1997

Mr. BOND. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 1139) to authorize the programs of the Small Business Administration, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1139) entitled ''An Act to reauthorize the programs of the Small Business Administration, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Small Business Programs Reauthorization and Amendments Acts of 1997''.

(b) TABLE OF CONTENTS.—

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by striking subsections (l) through (q) and inserting the following:

''(l) The following program levels are authorized for fiscal year 1998:

''(1) For the programs authorized by this Act, the Administration is authorized to make—

''(A) $40,000,000 in technical assistance grants, as provided in section 7(m); and

''(B) $60,000,000 in loans, as provided in section 7(m).

''(2) For the programs authorized by this Act, the Administration is authorized to make $15,040,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

''(A) $11,000,000,000 in general business loans as provided in section 7(a);

''(B) $3,000,000,000 in financings as provided in section 7(a)(13) of this Act and section 504 of the Small Business Investment Act of 1958;

''(C) $1,000,000,000 in loans as provided in section 7(a)(21); and

''(D) $40,000,000 in loans as provided in section 7(m).

''(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

''(A) $600,000,000 in purchases of participating securities; and

''(B) $500,000,000 in guarantees of debentures.

''(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,000,000,000, of which not more than $650,000,000 may be in bonds approved pursuant to section 411(a)(3) of that Act.

''(5) The Administration is authorized to make grants or enter into cooperative agreements—

''(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $4,000,000; and

''(B) for activities of small business development centers pursuant to section 21(c)(3)(G), $15,000,000, to remain available until expended.

''(m)(1) There are authorized to be appropriated to the Administration for fiscal year 1998 such sums as may be necessary to carry out this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

''(2) Notwithstanding paragraph (1), for fiscal year 1998—

''(A) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under subsection (l)(2)(A) is fully funded; and

''(B) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than $1,250,000.

''(n) The following program levels are authorized for fiscal year 1999:

''(1) For the programs authorized by this Act, the Administration is authorized to make—

''(A) $60,000,000 in technical assistance grants as provided in section 7(m); and

''(B) $60,000,000 in loans, as provided in section 7(m).

''(2) For the programs authorized by this Act, the Administration is authorized to make $16,540,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

''(A) $12,000,000,000 in general business loans as provided in section 7(a);

''(B) $3,500,000,000 in financings as provided in section 7(a)(13) of this Act and section 504 of the Small Business Investment Act of 1958;

''(C) $1,000,000,000 in loans as provided in section 7(a)(21); and

''(D) $40,000,000 in loans as provided in section 7(m).

''(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

''(A) $700,000,000 in purchases of participating securities; and

''(B) $650,000,000 in guarantees of debentures.

''(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,000,000,000, of which not more than $650,000,000 may be in bonds approved pursuant to section 411(a)(3) of that Act.

''(5) The Administration is authorized to make grants or enter cooperative agreements—

''(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $4,500,000; and

''(B) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $15,000,000, to remain available until expended.

''(o)(1) There are authorized to be appropriated to the Administration for fiscal year 1999 such sums as may be necessary to carry out this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

''(2) Notwithstanding paragraph (1), for fiscal year 1999—

''(A) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under subsection (n)(2)(A) is fully funded; and

''(B) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than $1,250,000.

''(p) The following program levels are authorized for fiscal year 2000:

''(1) For the programs authorized by this Act, the Administration is authorized to make—

''(A) $75,000,000 in technical assistance grants as provided in section 7(m); and

''(B) $60,000,000 in direct loans, as provided in section 7(m).

''(2) For the programs authorized by this Act, the Administration is authorized to make $19,040,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

''(A) $13,500,000,000 in general business loans as provided in section 7(a);

''(B) $4,500,000,000 in financings as provided in section 7(a)(13) of this Act and section 504 of the Small Business Investment Act of 1958;

''(C) $1,000,000,000 in loans as provided in section 7(a)(21); and

''(D) $40,000,000 in loans as provided in section 7(m).

''(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

''(A) $850,000,000 in purchases of participating securities; and

''(B) $700,000,000 in guarantees of debentures.

''(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,000,000,000, of which not more than $650,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of that Act.

''(5) The Administration is authorized to make grants or enter cooperative agreements—

''(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $5,000,000; and

''(B) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $15,000,000, to remain available until expended.

''(q)(1) There are authorized to be appropriated to the Administration for fiscal year 2000 such sums as may be necessary to carry out this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

''(2) Notwithstanding paragraph (1), for fiscal year 2000—

''(A) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under subsection (p)(2)(A) is fully funded; and

''(B) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than $1,250,000.''.

TITLE II—FINANCIAL PROGRAMS

Subtitle A—General Business Loans

SEC. 201. SECURITIZATION REGULATIONS.

The Administrator shall promulgate final regulations permitting bank and non-bank lenders to sell or securitize the non-guaranteed portion of loans made under section 7(a) of the Small Business Act (15 U.S.C. 636(a)). Such regulations shall be issued within 90 days of the date of enactment of this Act, and shall allow securitizations to proceed as regularly as is possible within the bounds of prudent and sound financial management practice.

SEC. 202. BACKGROUND CHECK OF LOAN APPLICANTS.

Section 7(a)(1) of the Small Business Act (15 U.S.C. 636(a)(1)) is amended by striking ''(1)'' and inserting the following:

''(1)(A) CREDIT ELSEWHERE.—'', and by adding the following new paragraph at the end:

''(B) BACKGROUND CHECKS.—Prior to the approval of any loan made pursuant to this subsection, or section 503 of the Small Business Investment Act, the Administrator shall verify the applicant's criminal background, or lack thereof, through the best available means, including, if possible, use of the National Crime Information Center computer system at the Federal Bureau of Investigation.''.

SEC. 203. REPORT ON INCREASED LENDER APPROVAL, SERVICING, FORECLOSURE, LIQUIDATION, AND LITIGATION OF 7(a) LOANS.

(a) Within six months of the date of enactment of this act the Administrator shall report on action taken and planned for future reliance on private sector lender resources to originate, approve, close, service, liquidate, foreclose, and

litigate loans made under Section 7(a) of the Small Business Act. The report should address administrative and other steps necessary to achieve these results, including—

(1) streamlining the process for approving lenders and standardizing requirements;

(2) establishing uniform reporting requirements using on-line automated capabilities to the maximum extent feasible;

(3) reducing paperwork through automation, simplified forms or incorporation of lender's forms;

(4) providing uniform standards for approval, closing, servicing, foreclosure, and liquidation;

(5) promulgating new regulations or amending existing ones;

(6) establishing a timetable for implementing the plan for reliance on private sector lenders;

(7) implementing organizational changes at SBA; and

(8) estimating the annual savings that would occur as a result of implementation.

(b) In preparing the report the Administrator shall seek the views and consult with, among others, 7(a) borrowers and lenders, small businesses who are potential program participants, financial institutions who are potential program lenders, and representative industry associations, such as the U. S. Chamber of Commerce, the American Bankers Association, the National Association of Government Guaranteed Lenders and the Independent Bankers Association of America.

SEC. 204. COMPLETION OF PLANNING FOR LOAN MONITORING SYSTEM.

(a) The Administrator shall perform and complete the planning needed to serve as the basis for funding the development and implementation of computerized loan monitoring system, including—

(1) fully defining the system requirement using on-line, automated capabilities to the extent feasible;

(2) identifying all data inputs and outputs necessary for timely report generation;

(3) benchmark loan monitoring business processes and systems against comparable industry processes and, if appropriate, simplify or redefine work processes based on these benchmarks;

(4) determine data quality standards and control systems for ensuring information accuracy;

(5) identify an acquisition strategy and work increments to completion;

(6) analyze the benefits and costs of alternatives and use to demonstrate the advantage of the final project;

(7) ensure that the proposed information system is consistent with the agency's information architecture; and

(8) estimate the cost to system completion, identifying the essential cost element.

(b) Six months from the date of enactment of this Act, the Administrator shall report to the House and Senate Committees on Small Business pursuant to the requirements of subsection (a), and shall also submit a copy of the report to the General Accounting Office, which shall evaluate the report for compliance with subsection (a) and shall submit such evaluation to both Committees no later than 28 days after receipt of the report from the Small Business Administration. None of the funds provided for the purchase of the loan monitoring system may be expended until the requirements of this section have been satisfied.

Subtitle B—Certified Development Company Program

SEC. 221. REAUTHORIZATION OF FEES.

Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended—

(1) by striking subsection (b)(7)(A) and inserting the following:

''(A) assesses and collects a fee, which shall be payable by the borrower, in an amount equal to 0.9375 percent per year of the outstanding balance of the loan; and'';

(2) by striking from subsection (d)(2) ''equal to 50 basis points'' and inserting ''equal to not more than 50 basis points,'';

(3) by adding the following at the end of subsection (d)(2): ''The amount of the fee authorized herein shall be established annually by the Administration in the minimal amount necessary to reduce the cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of purchasing and guaranteeing debentures under this Act to zero.''; and

(4) by striking from subsection (f) ''1997'' and inserting ''2000''.

SEC. 222. PCLP PARTICIPATION.

Section 508(a) of the Small Business Investment Act of 1958 (15 U.S.C. 697e(a)) is amended by striking ''not more than 15''.

SEC. 223. PCLP ELIGIBILITY.

Section 508(b)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 697e(b)(2)) is amended by striking paragraphs (A) and (B) and inserting:

''(A) is an active certified development company in good standing and has been an active participant in the accredited lenders program during the entire 12-month period preceding the date on which the company submits an application under paragraph (1), except that the Administration may waive this requirement if the company is qualified to participate in the accredited lenders program;

''(B) has a history (i) of submitting to the Administration adequately analyzed debenture guarantee application packages and (ii) of properly closing section 504 loans and servicing its loan portfolio; and''.

SEC. 224. LOSS RESERVES.

Section 508(c) of the Small Business Investment Act of 1958 (15 U.S.C. 697e(c)) is amended to read as follows:

''(c) LOSS RESERVE.—

''(1) ESTABLISHMENT.—A company designated as a premier certified lender shall establish a loss reserve for financing approved pursuant to this section.

''(2) AMOUNT.—The amount of the loss reserve shall be equal to 10 percent of the amount of the company's exposure as determined under subsection (b)(2)(C).

''(3) ASSETS.—The loss reserve shall be comprised of any combination of the following types of assets:

''(A) segregated funds on deposit in an account or accounts with a federally insured depository institution or institutions selected by the company, subject to a collateral assignment in favor of, and in a format acceptable to, the Administration; or

''(B) irrevocable letter or letters of credit, with a collateral assignment in favor of, and a commercially reasonable format acceptable to, the Administration.

''(4) CONTRIBUTIONS.—The company shall make contributions to the loss reserve, either cash or letters of credit as provided above, in the following amounts and at the following intervals:

''(A) 50 percent when a debenture is closed;

''(B) 25 percent additional not later than 1 year after a debenture is closed; and

''(C) 25 percent additional not later than 2 years after a debenture is closed.

''(5) REPLENISHMENT.—If a loss has been sustained by the Administration, any portion of the loss reserve, and other funds provided by the premier company as necessary, may be used to reimburse the Administration for the company's 10 percent share of the loss as provided in subsection (b)(2)(C). If the company utilizes the reserve, within 30 days it shall replace an equivalent amount of funds.

''(6) DISBURSEMENTS.—The Administration shall allow the certified development company to withdraw from the loss reserve amounts attributable to any debenture which has been repaid.''.

SEC. 225. GOALS.

Section 508 of the Small Business Investment Act of 1958 (15 U.S.C. 697e) is amended by inserting the following after subsection (d) and by redesignating subsections (e) through (i) as (f) through (j):

''(e) PROGRAM GOALS.—Certified development companies participating in this program shall establish a goal of processing 50 percent of their loan applications for section 504 assistance pursuant to the premier certified lender program authorized in this section.''.

SEC. 226. TECHNICAL AMENDMENTS.

Section 508(g) of the Small Business Investment Act of 1958 (15 U.S.C. 697(g)) is amended—

(1) in subsection (g), as redesignated herein, is amended by striking ''State or local'' and inserting ''certified'';

(2) in subsection (h), as redesignated herein—

(A) by striking ''EFFECT OF SUSPENSION OR DESIGNATION'' and inserting ''EFFECT OF SUSPENSION OR REVOCATION''; and

(B) by striking ''under subsection (f)'' and inserting ''under subsection (g)''.

SEC. 227. PROMULGATION OF REGULATIONS.

Section 508(i) of the Small Business Investment Act of 1958 (15 U.S.C. 697e(i)), as redesignated herein, is amended to read as follows:

''(i) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Administration shall promulgate regulations to carry out this section. Not later than 120 days after the date of enactment, the Administration shall issue program guidelines and implement the changes made herein.''.

SEC. 228. TECHNICAL AMENDMENT.

Section 508(j) of the Small Business Investment Act of 1958 (15 U.S.C. 697e(j)), as redesignated herein, is amended by striking ''other lenders'' and inserting ''other lenders, specifically comparing default rates and recovery rates on liquidations''.

SEC. 229. REPEAL.

Section 217(b) of Public Law 103–403 (108 Stat. 4185) is repealed.

SEC. 230. LOAN SERVICING AND LIQUIDATION.

Section 508(d)(1) of the Small Business Investment Act of 1958 (15 U.S.C. 697e(d)) is amended by striking ''to approve loans'' and inserting ''to approve, authorize, close, service, foreclose, litigate, and liquidate loans''.

SEC. 231. USE OF PROCEEDS.

Section 502(1) of the Small Business Investment Act of 1958 (15 U.S.C. 696(1)) is amended to read as follows:

''(1) The proceeds of any such loan shall be used solely by such borrower or borrowers to assist an identifiable small-business or businesses and for a sound business purpose approved by the Administration.''.

SEC. 232. LEASE OF PROPERTY.

Section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) is amended by adding the following new subsection:

''(5) Not to exceed 25 percent of any project may be permanently leased by the assisted small business: Provided, That the assisted small business shall be required to occupy and use not less than 55 percent of the space in the project after the execution of any leases authorized in this section.''.

SEC. 233. SELLER FINANCING AND COLLATERALIZATION.

Section 502(3) of the Small Business Investment Act of 1958 (15 U.S.C. 696(3)) is amended by inserting the following new subparagraphs:

''(D) SELLER FINANCING.—Seller provided financing may be used to meet the requirements of—

''(i) paragraph (B), if the seller subordinates his interest in the property to the debenture guaranteed by the Administration; and

''(ii) not to exceed 50 percent of the amounts required by paragraph (C).

''(E) COLLATERALIZATION.—The collateral provided by the small business concern generally shall include a subordinate lien position on the property being financed under this title, and is only one of the factors to be evaluated in

the credit determination. Additional collateral shall be required only if the Administration determines, on a case by case basis, that additional security is necessary to protect the interest of the Government.''.

SEC. 234. PREEXISTING CONDITIONS.

Section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) is amended by adding the following new paragraph:

''(6) Any loan authorized under this section shall not be denied or delayed for approval by the Administration due to concerns over preexisting environmental conditions: Provided, That the development company provides the Administration a letter issued by the appropriate State or Federal environmental protection agency specifically stating that the environmental agency will not institute any legal proceedings against the borrower or, in the event of a default, the development company or the Administration based on the preexisting environmental conditions: Provided further, That the borrower shall agree to provide environmental agencies access to the property for any reasonable and necessary remediation efforts or inspections.''.

Subtitle C—Small Business Investment Company Program

SEC. 241. 5-YEAR COMMITMENTS.

Section 20(a)(2) of the Small Business Act (15 U.S.C. 631 note) is amended in the last sentence by striking ''the following fiscal year'' and inserting ''any one or more of the 4 subsequent fiscal years''.

SEC. 242. PROGRAM REFORM.

(a) TAX DISTRIBUTIONS.—Section 303(g)(8) of the Small Business Investment Act of 1958 (15 U.S.C. 683(g)(8)) is amended in the first sentence—

(1) by inserting '', for each calendar quarter or once annually, as the company may elect,'' after ''the company may''; and

(2) by inserting ''for the preceding quarter or year'' before the period.

(b) LEVERAGE FEE.—Section 303(i) of the Small Business Investment Act of 1958 (15 U.S.C. 683(i)) is amended by striking '', payable upon'' and all that follows before the period and inserting the following: ''in the following manner: 1 percent upon the date on which the Administration enters into any commitment for such leverage with the licensee, and the balance of 2 percent (or 3 percent in which case in which no commitment has been entered into by the Administration) on the date on which the leverage is drawn by the licensee''.

(c) PERIODIC ISSUANCE OF GUARANTEES AND TRUST CERTIFICATES.—Section 320 of the Small Business Investment Act of 1958 (15 U.S.C. 687m) is amended by striking ''three months'' and inserting ''6 months''.

(d) INDEXING FOR LEVERAGE.—Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by adding at the end the following:

''(D)(i) The dollar amounts in subparagraphs (A), (B), and (C) shall be adjusted annually to reflect increases in the Consumer Price Index established by the Bureau of Labor Statistics of the Department of Labor.

''(ii) The initial adjustments made under this subparagraph after the date of enactment of the Small Business Reauthorization Act of 1997 shall reflect only increases from March 31, 1993.''; and

(B) by striking paragraph (4) and inserting the following:

''(4) MAXIMUM AGGREGATE AMOUNT OF LEVERAGE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the aggregate amount of outstanding leverage issued to any company or companies that are commonly controlled (as determined by the Administrator) may not exceed $90,000,000, as adjusted annually for increases in the Consumer Price Index.

''(B) EXCEPTIONS.—The Administrator may, on a case-by-case basis—

''(i) approve an amount of leverage that exceeds the amount described in subparagraph (A) for companies under common control; and

''(ii) impose such additional terms and conditions as the Administrator determines to be appropriate to minimize the risk of loss to the Administration in the event of default.

''(C) APPLICABILITY OF OTHER PROVISIONS.—Any leverage that is issued to a company or companies commonly controlled in an amount that exceeds $90,000,000, whether as a result of an increase in the Consumer Price Index or a decision of the Administrator, is subject to subsection (d).''; and

(2) by striking subsection (d) and inserting the following:

''(d) REQUIRED CERTIFICATIONS.—

''(1) IN GENERAL.—The Administrator shall require each licensee, as a condition of approval of an application for leverage, to certify in writing—

''(A) for licensees with leverage less than or equal to $90,000,000, that not less than 20 percent of the licensee's aggregate dollar amount of financings will be provided to smaller enterprises; and

''(B) for licensees with leverage in excess of $90,000,000, that, in addition to satisfying the requirements of subparagraph (A), 100 percent of the licensee's aggregate dollar amount of financings made in whole or in part with leverage in excess of $90,000,000 will be provided to smaller enterprises as defined in section 103(12).

''(2) MULTIPLE LICENSEES.—Multiple licensees under common control (as determined by the Administrator) shall be considered to be a single licensee for purposes of determining both the applicability of and compliance with the investment percentage requirements of this subsection.''.

SEC. 243. FEES.

Section 301 of the Small Business Investment Act of 1958 (15 U.S.C. 681) is amended by adding the following:

''(d) FEES.—

''(1) IN GENERAL.—The Administration may prescribe fees to be paid by each applicant for a license to operate as a small business investment company under this Act.

''(2) USE OF AMOUNTS.—Amounts collected pursuant to this subsection shall be—

''(A) deposited in the account for salaries and expenses of the Administration; and

''(B) available without further appropriation solely to cover contracting and other administrative costs related to licensing.''.

SEC. 244. EXAMINATION FEES.

Section 310(b) of the Small Business Investment Act of 1958 (15 U.S.C. 687b(b)) is amended by inserting after the first sentence the following: ''Fees collected under this subsection shall be deposited in the account for salaries and expenses of the Administration, and are authorized to be appropriated solely to cover the costs of examinations and other program oversight activities.''.

Subtitle D—Microloan Program

SEC. 251. MICROLOAN PROGRAM EXTENSION.

(a) LOAN LIMITS.—Section 7(m)(3)(C) of the Small Business Act (15 U.S.C. 636(m)(3)(C)) is amended by striking ''$2,500,000'' and inserting ''$3,500,000''.

(b) LOAN LOSS RESERVE FUND.—Section 7(m)(3)(D) of the Small Business Act (15 U.S.C. 636(m)(3)(D)) is amended by striking clauses (i) and (ii), and inserting the following:

''(i) during the initial 5 years of the intermediary's participation in the program under this subsection, at a level equal to not more than 15 percent of the outstanding balance of the notes receivable owed to the intermediary; and

''(ii) in each year of participation thereafter, at a level equal to not more than the greater of—

''(I) 2 times an amount reflecting the total losses of the intermediary as a result of participation in the program under this subsection, as determined by the Administrator on a case-by-case basis; or

''(II) 10 percent of the outstanding balance of the notes receivable owed to the intermediary.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in the subsection heading, by striking ''DEMONSTRATION'';

(2) by striking ''Demonstration'' each place that term appears;

(3) by striking ''demonstration'' each place that term appears; and

(4) in paragraph (12), by striking ''during fiscal years 1995 through 1997'' and inserting ''during fiscal years 1998 through 2000''.

SEC. 252. SUPPLEMENTAL MICROLOAN GRANTS.

Section 7(m)(4) of the Small Business Act (15 USC 636 (m)(4)) is amended by adding the following:

''(F)(i) The Administration may accept and disburse funds received from another Federal department or agency to provide additional assistance to individuals who are receiving assistance under the State program funded under part A of title IV of the Social Security Act (42 USC 601 et seq.), or under any comparable State-funded means-tested program of assistance for low-income individuals.

''(ii) Grant proceeds are in addition to other grants provided by this subsection and shall not require the contribution of matching amounts to be eligible. The grants may be used to pay or reimburse a portion of child care and transportation costs of individuals described in clause (i) and for marketing, management and technical assistance.

''(iii) Prior to accepting and distributing any such grants, the Administration shall enter a Memorandum of Understanding with the department or agency specifying the terms and conditions of the grants and providing appropriate monitoring of expenditures by the intermediary and ultimate grant recipient to insure compliance with the purpose of the grant.

''(iv) On January 31, 1999, and annually thereafter, the Administration shall submit to the Committees on Small Business of the House of Representatives and the Senate a report on any monies distributed pursuant to the provisions of this paragraph.

''(v) No funds are authorized to be provided to carry out the grant program authorized by this paragraph (F) except by transfer from another Federal department or agency to the Administration.''.

TITLE III—WOMEN'S BUSINESS ENTERPRISES

SEC. 301. REPORTS.

Section 404 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by inserting '', through the Small Business Administration,'' after ''transmit'';

(2) by striking paragraph (1) and redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively; and

(3) in paragraph (1), as redesignated, by inserting before the semicolon the following: '', including a status report on the progress of the Interagency Committee in meeting its responsibilities and duties under section 402(a)''.

SEC. 302. COUNCIL DUTIES.

Section 406 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) in subsection (c), by inserting after ''Administrator'' the following: ''(through the Assistant Administrator for the Office of Women's Business Ownership)''; and

(2) in subsection (d)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(6) submit to the President and to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives, an annual report containing—

''(A) a detailed description of the activities of the council, including a status report on the Council's progress toward meeting its duties outlined in subsections (a) and (d) of section 406;

''(B) the findings, conclusions, and recommendations of the Council; and

''(C) the Council's recommendations for such legislation and administrative actions as the Council considers appropriate to promote the development of small business concerns owned and controlled by women.

''(e) SUBMISSION OF REPORTS.—The annual report required by subsection (d) shall be submitted not later than 90 days after the end of each fiscal year.''.

SEC. 303. COUNCIL MEMBERSHIP.

Section 407 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) in subsection (a), by striking ''and Amendments Act of 1994'' and inserting ''Act of 1997'';

(2) in subsection (b)—

(A) by striking ''and Amendments Act of 1994'' and inserting ''Act of 1997'';

(B) by inserting after ''the Administrator shall'' the following: '', after receiving the recommendations of the Chair and the Ranking Member of the Minority of the Committees on Small Business of the House of Representatives and the Senate,'';

(C) by striking ''9'' and inserting ''14'';

(D) in paragraph (1), by striking ''2'' and inserting ''4'';

(E) in paragraph (2)—

(i) by striking ''2'' and inserting ''4''; and

(ii) by striking ''and'' at the end;

(F) in paragraph (3)—

(i) by striking ''5'' and inserting ''6''; and

(ii) by striking ''national''.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

Section 409 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking ''1995 through 1997'' and inserting ''1998 through 2000''; and

(2) by striking ''$350,000'' and inserting ''$600,000, of which $200,000 shall be for grants for research of women's procurement or finance issues.''.

SEC. 305. WOMEN'S BUSINESS CENTERS.

(a) IN GENERAL.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended to read as follows:

''SEC. 29. WOMEN'S BUSINESS CENTERS.

''(a) DEFINITION.—For the purposes of this section the term 'small business concern owned and controlled by women', either startup or existing, includes any small business concern—

''(1) that is not less than 51 percent owned by one or more women; and

''(2) the management and daily business operations of which are controlled by one or more women.

''(b) AUTHORITY.—The Administration may provide financial assistance to private organizations to conduct 5-year projects for the benefit of small business concerns owned and controlled by women. The projects shall provide—

''(1) financial assistance, including training and counseling in how to apply for and secure business credit and investment capital, preparing and presenting financial statements, and managing cash flow and other financial operations of a business concern;

''(2) management assistance, including training and counseling in how to plan, organize, staff, direct, and control each major activity and function of a small business concern; and

''(3) marketing assistance, including training and counseling in identifying and segmenting domestic and international market opportunities, preparing and executing marketing plans, developing pricing strategies, locating contract opportunities, negotiating contracts, and utilizing varying public relations and advertising techniques.

''(c) CONDITIONS OF PARTICIPATION.—

''(1) NON-FEDERAL CONTRIBUTIONS.—As a condition of receiving financial assistance authorized by this section, the recipient organization shall agree to obtain, after its application has been approved and notice of award has been issued, cash contributions from non-Federal sources as follows:

''(A) In the first and second years, 1 non-Federal dollar for each 2 Federal dollars.

''(B) In the third year, 1 non-Federal dollar for each Federal dollar.

''(C) In the fourth and fifth years, 2 non-Federal dollars for each Federal dollar.

''(2) FORM OF NON-FEDERAL CONTRIBUTIONS.—Not more than one-half of the non-Federal sector matching assistance may be in the form of in-kind contributions which are budget line items only, including but not limited to office equipment and office space.

''(3) FORM OF FEDERAL CONTRIBUTIONS.—The financial assistance authorized pursuant to this section may be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way of reimbursement. The Administration may disburse up to 25 percent of each year's Federal share awarded to a recipient organization after notice of the award has been issued and before the non-Federal sector matching funds are obtained.

''(4) FAILURE TO OBTAIN PRIVATE FUNDING.—If any recipient of assistance fails to obtain the required non-Federal contribution during any project, it shall not be eligible thereafter for advance disbursements pursuant to paragraph (3) during the remainder of that project, or for any other project for which it is or may be funded by the Administration, and prior to approving assistance to such organization for any other projects, the Administration shall specifically determine whether the Administration believes that the recipient will be able to obtain the requisite non-Federal funding and enter a written finding setting forth the reasons for making such determination.

''(d) CONTRACT AUTHORITY.—A women's business center may enter into a contract with a Federal department or agency to provide specific assistance to women and other underserved small business concerns. Performance of such contract should not hinder the women's business centers in carrying out the terms of the grant received by the women's business centers from the Administration.

''(e) SUBMISSION OF 5-YEAR PLAN.—Each applicant organization initially shall submit a 5-year plan to the Administration on proposed fundraising and training activities, and a recipient organization may receive financial assistance under this program for a maximum of 5 years per women's business center.

''(f) CRITERIA.—The Administration shall evaluate and rank applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration. The criteria shall include—

''(1) the experience of the applicant in conducting programs or ongoing efforts designed to impart or upgrade the business skills of women business owners or potential owners;

''(2) the present ability of the applicant to commence a project within a minimum amount of time;

''(3) the ability of the applicant to provide training and services to a representative number of women who are both socially and economically disadvantaged; and

''(4) the location for the women's business center site proposed by the applicant.

''(g) OFFICE OF WOMEN'S BUSINESS OWNERSHIP.—There is established within the Administration an Office of Women's Business Ownership, which shall be responsible for the administration of the Administration's programs for the development of women's business enterprises (as that term is defined in section 408 of the Women's Business Ownership Act of 1988). The Office of Women's Business Ownership shall be administered by an Assistant Administrator, who shall be appointed by the Administrator.

''(h) REPORT.—The Administrator shall prepare and submit an annual report to the Committees on Small Business of the House of Representatives and the Senate on the effectiveness of all projects conducted under the authority of this section. Such report shall provide information concerning—

''(1) the number of individuals receiving assistance;

''(2) the number of startup business concerns formed;

''(3) the gross receipts of assisted concerns;

''(4) increases or decreases in profits of assisted concerns; and

''(5) the employment increases or decreases of assisted concerns.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $8,000,000 per year to carry out the projects authorized by this section of which for fiscal year 1998 not more than 10 percent may be used for administrative expenses related to the program. Amounts appropriated pursuant to this subsection for fiscal year 1999 and later are to be used exclusively for grant awards and not for costs incurred by the Administration for the management and administration of the program. Notwithstanding any other provision of law, the Administration may use such expedited acquisition methods as it deems appropriate, through the Assistant Administrator of the Office of Women's Business Ownership, to achieve the purposes of this section, except that the Administration shall ensure that all small business sources are provided a reasonable opportunity to submit proposals.''.

(b) APPLICABILITY.—Any organization conducting a 3-year project under section 29 of the Small Business Act (15 U.S.C. 656) on the day before the date of enactment of this Act, may extend the term of that project to a total term of 5 years and receive financial assistance in accordance with section 29(c) of the Small Business Act (as amended by this title) subject to procedures established by the Administrator in coordination with the Office of Women's Business Ownership established under section 29 of the Small Business Act (15 U.S.C. 656) (as amended by this title).

SEC. 306. OFFICE OF WOMEN'S BUSINESS OWNERSHIP.

Section 29 of the Small Business Act (15 U.S.C. 656) is amended by adding at the end the following:

''(j) ASSISTANT ADMINISTRATOR FOR THE OFFICE OF WOMEN'S BUSINESS OWNERSHIP.—

''(1) ESTABLISHMENT.—There is established the position of Assistant Administrator for the Office of Women's Business Ownership (hereafter in this section referred to as the 'Assistant Administrator') who shall serve without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

''(2) RESPONSIBILITIES AND DUTIES.—

''(A) RESPONSIBILITIES.—The responsibilities of the Assistant Administrator shall be to administer the programs and services of the Office of Women's Business Ownership established to assist women entrepreneurs in the areas of—

''(i) starting and operating a small business;

''(ii) development of management and technical skills;

''(iii) seeking Federal procurement opportunities; and

''(iv) increasing the opportunity for access to capital.

''(B) DUTIES.—Duties of the position of the Assistant Administrator shall include—

''(i) administering and managing the Women's Business Centers program;

''(ii) recommending the annual administrative and program budgets for the Office of Women's Business Ownership (including the budget for the Women's Business Centers);

''(iii) establishing appropriate funding levels therefore;

''(iv) reviewing the annual budgets submitted by each applicant for the Women's Business Center program;

''(v) selecting applicants to participate in this program;

''(vi) implementing this section;

''(vii) maintaining a clearinghouse to provide for the dissemination and exchange of information between Women's Business Centers;

''(viii) serving as the vice chairperson of the Interagency Committee on Women's Business Enterprise;

''(ix) serving as liaison for the National Women's Business Council; and

''(x) advising the Administrator on appointments to the Women's Business Council.

''(3) CONSULTATION REQUIREMENTS.—In carrying out the responsibilities and duties described in this subsection, the Assistant Administrator shall confer with and seek the advice of the Administration officials in areas served by the Women's Business Centers.

''(k) PROGRAM EXAMINATION.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Administration shall develop and implement an annual programmatic and financial examination of each Women's Business Center established pursuant to this section.

''(2) EXTENSION OF CONTRACTS.—In extending or renewing a contract with a Women's Business Center, the Administration shall consider the results of the examination conducted pursuant to paragraph (1).

''(l) CONTRACT AUTHORITY.—The authority of the Administration to enter into contracts shall be in effect for each fiscal year only to the extent and in the amounts as are provided in advance in appropriations Acts. After the Administration has entered a contract, either as a grant or a cooperative agreement, with any applicant under this section, it shall not suspend, terminate, or fail to renew or extend any such contract unless the Administration provides the applicant with written notification setting forth the reasons therefore and affording the applicant an opportunity for a hearing, appeal, or other administrative proceeding under chapter 5 of title 5, United States Code.''.

TITLE IV—COMPETITIVENESS PROGRAM

SEC. 401. PROGRAM TERM.

Section 711(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended by striking '', and terminate on September 30, 1997''.

SEC. 402. MONITORING AGENCY PERFORMANCE.

Section 712(d)(1) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended to read as follows:

''(1) Participating agencies shall monitor the attainment of their small business participation goals on an annual basis. An annual review by each participating agency shall be completed not later than January 31 of each year, based on the data for the preceding fiscal year, from October 1 through September 30.''.

SEC. 403. SMALL BUSINESS PARTICIPATION IN DREDGING.

Section 722(a) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended by striking ''and terminating on September 30, 1997''.

SEC. 404. TECHNICAL AMENDMENT.

Section 717 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended—

(1) by striking ''standard industrial classification code'' each time it appears and inserting in lieu thereof ''North American Industrial Classification Code''; and

(2) by striking ''standard industrial classification codes'' each time it appears and inserting in lieu thereof ''North American Industrial Classification Codes''.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. SMALL BUSINESS DEVELOPMENT CENTERS.

(a) IN GENERAL.—Section 21(a) of the Small Business Act (15 U.S.C. 648(a)) is amended—

(1) in paragraph (1), by inserting ''any women's business center operating pursuant to section 29,'' after ''credit or finance corporation,'';

(2) in paragraph (3)—

(A) by striking '', but with'' and all that follows through ''parties.'' and inserting the following: ''for the delivery of programs and services to the Small Business community. Such programs and services shall be jointly developed, negotiated, and agreed upon, with full participation of both parties, pursuant to an executed cooperative agreement between the Small Business Development Center applicant and the Administration.''; and

(B) by adding at the end the following:

''(C) On an annual basis, the Small Business Development Center shall review and coordinate public and private partnerships and cosponsorships with the Administration for the purpose of more efficiently leveraging available resources on a National and a State basis.'';

(3) in paragraph (4)(C)—

(A) by striking clause (i) and inserting the following:

''(i) IN GENERAL.—

''(I) MAXIMUM AMOUNT.—Except as provided in clause (ii), and subject to subclause (II) of this clause, the amount of a grant received by a State under this section shall not exceed greater of—

''(aa) $500,000; and

''(bb) the State's pro rata share of a national program, based upon the population of the State as compared to the total population of the United States.

''(II) EXCEPTION.—Subject to the availability of amounts made available in advance in an appropriations Act to carry out this section for any fiscal year in excess of amounts so provided for fiscal year 1997, the amount of a grant received by a State under this section shall not exceed the greater of $500,000, and the sum of—

''(aa) the State's pro rata share of a national program, based upon the population of the State as compared to the total population of the United States; and

''(bb) and $300,000 in fiscal year 1998, $400,000 in fiscal year 1999, and $500,000 in each fiscal year thereafter.''; and

(B) in clause (iii), by striking ''(iii)'' and all that follows through ''1997.'' and inserting the following:

''(iii) NATIONAL PROGRAM.—The national program under this section shall be—

''(I) $85,000,000 for fiscal year 1998;

''(II) $90,000,000 for fiscal year 1999; and

''(III) $95,000,000 for fiscal year 2000 and each fiscal year thereafter.''; and

(4) in paragraph (6)—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) in subparagraph (B), by striking the comma at the end and inserting ''; and''; and

(C) inserting after subparagraph (B) the following:

''(C) with outreach, development, and enhancement of minority-owned small business startups or expansions, veteran-owned small business startups or expansions, and women-owned small business startups or expansions, in communities impacted by base closings or military or corporate downsizing, or in rural or underserved communities;''.

(b) SBDC SERVICES.—Section 21(c) of the Small Business Act (15 U.S.C. 648(c)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking ''businesses;'' and inserting ''businesses, including—

''(i) working with individuals to increase awareness of basic credit practices and credit requirements;

''(ii) working with the Administration to develop and provide informational tools for use in working with individuals on pre-business start-up planning, existing business expansion, business plans, financial packages, credit applications, contract proposals, and export planning; and

''(iii) working with individuals referred by the local offices of the Administration and Administration participating lenders;'';

(B) in each of subparagraphs (B), (C), (D), (E), (F), (G), (M), (N), (O), (Q), and (R) by moving each margin two ems to the left;

(C) in subparagraph (C), by inserting ''and the Administration'' after ''Center'';

(D) in subparagraph (Q), by striking ''and'' at the end;

(E) in subparagraph (R), by striking the period at the end and inserting ''; and''; and

(2) in paragraph (5)—

(A) by moving the margin 2 ems to the left;

(B) by striking ''paragraph (a)(1)'' and inserting ''subsection (a)(1)'';

(C) by striking ''which ever'' and inserting ''whichever''; and

(D) by striking ''last,,'' and inserting ''last,'';

(3) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively; and

(4) in paragraph (3), in the undesignated material following subparagraph (S) (as added by this subsection), by striking ''A small'' and inserting the following:

''(4) A small''.

(c) COMPETITIVE AWARDS.—Section 21(l) of the Small Business Act (15 U.S.C. 648(l)) is amended by adding at the end the following: ''If any contract under this section is not renewed or extended, award of the succeeding contract shall be made on a competitive basis.''.

(d) PROHIBITION ON CERTAIN FEES.—Section 21 of the Small Business Act (15 U.S.C. 648) is amended by adding at the end the following:

''(m) PROHIBITION ON CERTAIN FEES.—A small business development center shall not impose or otherwise collect a fee or other compensation in connection with the provision of counseling services under this section.''.

SEC. 502. SMALL BUSINESS EXPORT PROMOTION.

(a) IN GENERAL.—Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended by inserting after subparagraph (R) the following:

''(S) providing small business owners with access to a wide variety of export-related information by establishing on-line computer linkages between small business development centers and an international trade data information network with ties to the Export Assistance Center program.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out section 21(c)(3)(S) of the Small Business Act (15 U.S.C. 648(c)(3)(S)), as added by this section, $1,500,000 for each of fiscal years 1998 and 1999.

SEC. 503. PILOT PREFERRED SURETY BOND GUARANTEE PROGRAM EXTENSION.

Section 207 of the Small Business Administration Reauthorization and Amendment Act of 1988 (15 U.S.C. 694b note) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2000''.

SEC. 504. VERY SMALL BUSINESS CONCERNS.

Section 304(i) of Public Law 103–403 (15 U.S.C. 644 note) is amended by striking ''1998'' and inserting ''2000''.

SEC. 505. EXTENSION OF COSPONSORSHIP AUTHORITY.

Section 401(a)(2) of the Small Business Administration Reauthorization and Amendments Act of 1994 (15 U.S.C. 637 note) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2000''.

SEC. 506. TRADE ASSISTANCE PROGRAM FOR SMALL BUSINESS CONCERNS HARMED BY NAFTA.

The Small Business Administration shall coordinate assistance programs currently administered by the Administration to counsel small business concerns harmed by the North American Free Trade Agreement to aid such concerns in reorienting their business purpose.

TITLE VI—SERVICE DISABLED VETERANS

SEC. 601. PURPOSES.

The purposes of this title are—

(1) to foster enhanced entrepreneurship among eligible veterans by providing increased opportunities;

(2) to vigorously promote the legitimate interests of small business concerns owned and controlled by eligible veterans; and

(3) to ensure that those concerns receive fair consideration in purchases made by the Federal Government.

SEC. 602. DEFINITIONS.

For purposes of this title, the following definitions apply:

(1) ADMINISTRATION.—The term ''Administration'' means the Small Business Administration.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Small Business Administration.

(3) ELIGIBLE VETERAN.—The term ''eligible veteran'' means a disabled veteran, as defined in section 4211(3) of title 38, United States Code.

(4) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY ELIGIBLE VETERANS.—The term ''small business concern owned and controlled by eligible veterans'' means a small business concern (as defined in section 3 of the Small Business Act)—

(A) which is at least 51 percent owned by 1 or more eligible veteran, or in the case of a publicly owned business, at least 51 percent of the stock of which is owned by 1 or more eligible veteran; and

(B) whose management and daily business operations are controlled by eligible veterans.

SEC. 603. REPORT BY SMALL BUSINESS ADMINISTRATION.

(a) STUDY AND REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator shall conduct a comprehensive study and issue a final report to the Committees on Small Business of the House of Representatives and the Senate containing findings and recommendations of the Administrator on—

(1) the needs of small business concerns owned and controlled by eligible veterans;

(2) the availability and utilization of Administration programs by small business concerns owned and controlled by eligible veterans;

(3) the percentage, and dollar value, of Federal contracts awarded to small business concerns owned and controlled by eligible veterans in the preceding 5 fiscal years; and

(4) methods to improve Administration and other programs to serve the needs of small business concerns owned and controlled by eligible veterans.

The report also shall include recommendations to Congress concerning the need for legislation and recommendations to the Office of Management and Budget, relevant offices within the Administration, and the Department of Veterans Affairs.

(b) CONDUCT OF STUDY.—In carrying out subsection (a), the Administrator—

(1) may conduct surveys of small business concerns owned and controlled by eligible veterans and service disabled veterans, including those who have sought financial assistance or other services from the Administration;

(2) shall consult with the appropriate committees of Congress, relevant groups and organizations in the non-profit sector, and Federal or State government agencies; and

(3) shall have access to any information within other Federal agencies which pertains to such veterans and their small businesses, unless such access is specifically prohibited by law.

SEC. 604. INFORMATION COLLECTION.

After the date of issuance of the report required by section 603, the Secretary of Veterans Affairs shall, in consultation with the Assistant Secretary for Veterans' Employment and Training and the Administrator, engage in efforts each fiscal year to identify small business concerns owned and controlled by eligible veterans in the United States. The Secretary shall inform each small business concern identified under this section that information on Federal procurement is available from the Administrator.

SEC. 605. STATE OF SMALL BUSINESS REPORT.

Section 303(b) of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631b(b)) is amended by striking ''and female-owned businesses'' and inserting '', female-owned, and veteran-owned businesses''.

SEC. 606. LOANS TO VETERANS.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by inserting after paragraph (7) the following:

''(8) The Administration is empowered to make loans under this subsection to small business concerns owned and controlled by disabled veterans. For purposes of this paragraph, the term 'disabled veteran' shall have the meaning such term has in section 4211(3) of title 38, United States Code.''.

SEC. 607. ENTREPRENEURIAL TRAINING, COUNSELING, AND MANAGEMENT ASSISTANCE.

The Administrator shall take such actions as may be necessary to ensure that small business concerns owned and controlled by eligible veterans have access to programs established under the Small Business Act which provide entrepreneurial training, business development assistance, counseling, and management assistance to small business concerns. Such programs include the Small Business Development Center, Small Business Institute, Service Corps of Retired Executives (SCORE), and Active Corps of Executives (ACE) programs.

SEC. 608. GRANTS FOR ELIGIBLE VETERANS OUTREACH PROGRAMS.

Section 8(b) of the Small Business Act (15 U.S.C. 637(b)) is amended—

(1) by striking ''and'' at the end of paragraph (15);

(2) by striking the period at the end of the first paragraph (16) and inserting ''; and'';

(3) by striking the second paragraph (16); and

(4) by adding at the end the following new paragraph:

''(17) to make grants to, and enter into contracts and cooperative agreements with, educational institutions, private businesses, veterans' nonprofit community-based organizations, and Federal, State, and local departments and agencies for the establishment and implementation of outreach programs for disabled veterans, as defined in section 4211(3) of title 38, United States Code.''.

SEC. 609. OUTREACH FOR ELIGIBLE VETERANS.

The Administrator, the Secretary of Veterans Affairs, and the Assistant Secretary of Labor for Veterans' Employment and Training shall develop and implement a program of comprehensive outreach to assist eligible veterans. Such outreach shall include business training and management assistance, employment and relocation counseling, and dissemination of information on veterans benefits and veterans entitlements.

TITLE VII—SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAM

SEC. 701. AMENDMENTS.

Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subsection (b)(7), by inserting '', and the Committee on Science'' after ''of the Senate'';

(2) in subsection (e)(4)(A) by striking ''(ii)'';

(3) in subsection (e)(6)(B), by inserting ''agency'' after ''to meet particular'';

(4) in subsection (n)(1)(C), by striking ''and 1997'' and inserting in lieu thereof ''through 2000'';

(5) in subsection (o)—

(A) by redesignating paragraphs (8) through (11) as paragraphs (10) through (13), respectively; and

(B) by inserting after paragraph (7) the following new paragraphs:

''(8) include, as part of its annual performance plan as required by section 1115(a) and (b) of title 31, United States Code, a section on its STTR program, and shall submit such section to the Committee on Small Business of the Senate, and the Committee on Science and the Committee on Small Business of the House of Representatives;

''(9) collect such data from awardees as is necessary to assess STTR program outputs and outcomes;''; and

(6) by adding at the end the following new subsections:

''(s) OUTREACH PROGRAM.—Within 90 days after the date of the enactment of this subsection, the Administrator shall develop and begin implementation of an outreach program to encourage increased participation in the STTR program of small business concerns, universities, and other research institutions located in States in which the total number of STTR awards for the previous 2 fiscal years is less than 20.

''(t) INCLUSION IN STRATEGIC PLANS.—Program information relating to the SBIR and STTR programs shall be included by Federal agencies in any updates and revisions required under section 306(b) of title 5, United States Code.''.

AMENDMENT NO. 1543

(Purpose: To provide a complete substitute)

Mr. BOND. Mr. President, I move to concur in the House amendment with an amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 1543.

(The text of the amendment is located in today's RECORD under ''Amendments Submitted.'')

Mr. BOND. Mr. President, I advise my colleagues that after long negotiations, I think we have reached an agreement on the measure to reauthorize the Small Business Administration for the next 3 fiscal years to continue vitally important programs and to add new programs which we think will be of significant benefit to our country. The measure before us now is similar to the bill we passed in early September, and it includes changes passed by the House of Representatives.

The negotiations have been very detailed, and we think if we can get to passage of this measure on the House side prior to the adjournment for the remainder of the calendar year that our Nation's small businesses will be greatly aided by this bill.

There are certain programs in the Small Business Administration that need to be reauthorized, and that cannot occur without this legislation. Some of the loan programs will continue even without the reauthorization, but the Small Business Technology Transfer Program, known as STTR, the Microloan Program, the 504 Loan Program, the Small Business

Competitiveness Demonstration Program, and SBA's cosponsorship authority will expire if there is no reauthorization passed and signed by the President.

In addition, the measure that we passed unanimously in early September includes provisions relating to the very important issue of bundling of large Federal contracts. The bill adds a new outreach program for disabled veterans. It also includes significant changes in the Microloan Program, which was a top priority of Senator KERRY and others. The bill contains my HUBZones Program which is designed to encourage small businesses to provide welfare-to-work opportunities in inner cities and in rural areas of high unemployment by providing small business contracts set-asides in HUBZones, which are historically underutilized business zones marked by high rates of poverty and high rates of unemployment. We believe the HUBZone Program can do a tremendous amount to assist us in the goal which I think is generally agreed upon around here, and that is to provide more opportunities for people who need want to move from welfare or dependency upon public assistance to gainful employment.

Mr. President, I am very pleased that we can accomplish passage of this important legislation today. We hope that the House will move on it expeditiously next week so that we can get the measure to the President for his signature before we adjourn for the year.

Mr. President, I ask unanimous consent that a joint explanatory statement describing this bill be printed in the RECORD.

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

JOINT EXPLANATORY STATEMENT

The bill establishes authorizations of appropriation for programs of the Small Business Administration, creates a new program, and makes a number of changes in existing programs.

TITLE I: AUTHORIZATIONS

In Title I, the bill authorizes appropriations for SBA's several business loan programs and for certain business development programs for Fiscal Years 1998, 1999, and 2000. Included among the loan programs are section 7(a) loan guarantees, 7(a)(21) defense conversion loan guarantees, Microloans, Small Business Investment Company (SBIC) debentures, and SBIC Participating Securities. Also included in this Title is a ''such sums as may be necessary'' authorization of appropriations for SBA business and homeowner disaster loans, which are direct loans made to individuals and businesses in communities which have been affected by natural disasters.

Except for disaster loan funding, the authorization levels with respect to funding for SBA loan programs, and certain business development programs, are set forth in the following chart.

Program Levels for SBA Reauthorization Bill

[In millions]

Program	Current Level		SBA 3 Year Authorization Request			Reauthorization Bill		
	FY 97	FY 98 Budget Request	1998	1999	2000	1998	1999	2000
7(a)	$10.3	$8.5	$10	$11	$13	$12,000	$13,000	$14,500
504	2.65	2.3	3	3.5	4.5	3,000	3,500	4,500
SBIC:								
Debentures	300	376	450	550	650	600	700	800
Participating Securities	410	456	600	700	850	700	800	900
Microloan:								
Technical Assistance	13	16.5	42	65.8	86.7	40	40	40
Direct Loans	24	19	60	60	60	60	60	60
Guaranteed Loans	19	25	40	40	40	40	40	40
Delta	48	88	1	1	1,000	1,000	1,000	1,000
Surety Bond Guarantee	1,800	1,700						
General Program	N/A	N/A	1,350	1,350	1,350	1,350	1,350	1,350
Preferred Program	N/A	N/A	650	650	650	650	650	650
SCORE	3.3	3.5	3.9	4.2	4.5	4	4.5	5
SBDC Base Closure Assistance	2		15	15	15	15	15	15
Women's Business Centers	4	4	4	4	4	8	8	8

TITLE II: FINANCIAL ASSISTANCE PROGRAMS

Subtitle A—Microloan Program

Section 201. Microloan Program.

The bill authorizes the direct microloan program, including the technical assistance grants, as a permanent program and extends the guaranteed microloan program through Fiscal Year 2000. In doing so, the Congress recognizes the effectiveness of these programs and the integral role they play in SBA's array of small business financial assistance programs. In order to maintain the financial integrity and success of the programs, including the welfare-to-work microloan initiative authorized by section 202 of this bill, SBA should continue to administer the programs through its offices charged with management and oversight of small business finance programs.

The bill makes a number of changes to the permanent program, including: 1) increases the loan limit for each intermediary under the microloan program from $2,500,000 to $3,500,000; 2) changes the loan loss reserve requirements for an experienced microloan intermediary to the greater of twice its historic loss rate or 10 percent of its outstanding loan balance; 3) increases from 15 percent to 25 percent the percentage of a technical assistance grant that may be used for microloan program participants prior to their receipt of a microloan; and 4) authorizes up to 25 percent of the technical assistance grants to be used for contracting with third parties to provide assistance to microborrowers.

Section 202. Welfare-to-Work Microloan Initiative.

The bill establishes a Welfare-to-Work Microloan Initiative, a three-year initiative to test the feasibility of providing supplemental grants to existing microloan intermediaries and technical assistance providers specifically targeted to helping individuals leave public assistance and establish their own businesses. While this initiative is not expected to be appropriate for all individuals seeking to leave public assistance, testimony before the Senate Committee indicated that in the state of Iowa microloan technical assistance has been one useful tool for assisting some in this population to establish small businesses. By authorizing 20 locations to target the welfare population, this initiative is intended to test the effectiveness of this tool in all regions of the country. The bill requires an annual evaluation of the initiative and its effectiveness in moving individuals from public assistance to business ownership.

The bill also authorizes supplemental grants to be used, at the discretion of the intermediary or technical assistance provider, to pay all or a portion of the child care or transportation costs of an individual participating in this initiative. These costs are often identified as the highest barriers to the employment of welfare recipients. To encourage the creation of small businesses in these key areas, the bill authorizes the microloan program to assist individuals who are starting or operating a for-profit or nonprofit child care establishment or a for-profit transportation business.

The bill authorizes SBA to fund the supplemental microloan technical assistance grants solely through transfers by cooperative agreements with other Federal departments or agencies which have appropriated funds for the purpose of moving individuals from public assistance to employment. The Small Business Administration is authorized to receive $3 million for Fiscal Year 1998, $4 million for Fiscal Year 1999, and $5 million for Fiscal Year 2000 for the welfare-to-work microloan initiative.

Subtitle B—Small Business Investment Company Program

Section 211. Five Year Commitments for SBICs at Option of Administrator.

The bill gives the Administrator of SBA authority to make five year leverage commitments for SBICs. This new authority is designed to assist SBICs in raising private capital, which is matched with government guaranteed capital to be invested in small businesses. By allowing SBA to approve five year commitments, an SBIC will be able to obtain leverage commitments based on its typical investment pattern, which normally allows for all investments to be made during the first five years of the SBIC's life-cycle.

Section 212. Fees.

The bill includes a provision to permit SBA to collect fees from applicants for a license under the SBIC Program. It permits SBA to retain these funds to offset its overhead to conduct a review of each applicant.

Section 213. Small Business Investment Company Reform.

(a) Bank Investments

This subsection modifies the Small Business Investment Act of 1958 to allow banks to continue to invest in SBICs, whether the SBIC is organized as a corporation, partnership, or limited liability company. This provision expressly permits banks to invest in entities established to invest solely in SBICs, with no requirement that such entities be registered investment companies. Currently, the Small Business Investment Act only provides that banks may purchase stock from SBICs; however, many SBICs are now organized as limited liability companies and partnerships which do not have stock, and some banks may want to structure their SBIC investments through a separately managed ''fund of funds'' to diversify among several different SBICs. This provision will permit such investments.

(b) Leverage Cap

Section 213 provides for a $90 million cap on leverage to an individual SBIC or multiple SBICs under common control to be adjusted annually for inflation. Under this subsection, recipients of leverage in excess of $90 million would agree to invest all leverage obtained above this cap in ''smaller businesses,'' which are defined as small businesses having $2 million or less in revenues and $6 million or less in net worth. The $90 million cap will be adjusted annually for inflation.

(c) Tax Distributions

Because the majority of the SBICs are partnerships, this subsection permits SBICs to make quarterly distributions to its investors (i.e., partners) to meet the investors' tax obligations. This quarterly distribution is designed to cover the situation where investors are making quarterly tax payments to the Federal government. If the SBIC's tax liability is not as great as estimated, the quarterly tax distributions are applied to the following tax year.

(d) Leverage Fee

Under this subsection, SBICs will be required to pay a 1 percent commitment fee at the time SBA makes a commitment for leverage, and the balance of 2 percent will be paid on the amount of leverage as it is periodically drawn by the SBIC. If SBA made no prior commitment to the SBIC for leverage, the entire 3 percent fee is paid at the time that leverage is drawn by the SBIC.

(e) Periodic Issuance of Guarantees and Trust Certificates

Subsection (e) will permit SBA to pool and sell debentures to investors every six months. This is a change from current law which requires SBA to pool and sell debentures every three months. Current law has caused difficulties for SBA in producing sufficiently large and diverse pools of debentures that are most attractive to investors. This change will allow for large pools, which should generate greater investment interest and more favorable interest rates for SBICs. Under this subsection, SBA will retain the discretion to pool and sell debentures more frequently, if there is sufficient demand.

Section 214. Examination Fees.

This section would permit SBA to collect fees from SBICs to defray costs for SBA to conduct periodic examinations of SBICs. It is the intention of the Conferees that these funds be available to SBA solely to cover the costs of the examinations and other related oversight activities.

Subtitle C—Certified Development Company Program

Section 221. Loans for Planned Acquisition, Construction, Conversion, and Expansion

The bill permits a borrower under the 504 Program to lease out 20 percent of the project to one or more other tenants. This new authorization will allow the 504 borrower to attract an unaffiliated tenant to its project that would complement the borrower's business activity. The bill also permits the seller to provide partial financing to the 504 borrower, so long as the seller subordinates its interest in the property to that of the SBA. The seller's financing is limited to no more than 50 percent of the equity that must be provided to the project by the borrower.

Section 222. Development Company Debentures

The bill permits SBA to collect a fee of up to 15/16ths of 1 percent fee through Fiscal Year 2000, paid by the 504 borrower annually on the outstanding principal owed on the loan guaranteed by SBA. The bill directs that the fee paid by the 504 borrower be reduced by SBA in an amount to insure that excessive fees are not collected by SBA from 504 borrowers if the credit subsidy rate is reduced.

Section 223. Premier Certified Lenders Program

The bill expands the Premier Certified Lenders Program by repealing the current limit of 15 CDCs that can participate under the program. The responsibilities of a PCLP participant are expanded to include in addition to approving loans, authorizing, closing, servicing, foreclosing, litigating and liquidating loans. The bill recognizes that the Administration has a legitimate oversight interest in law suits to which a premier certified lender is a party. The bill anticipates that SBA will interject its views on a case of first impression or other litigation of a precedent setting nature and may request a litigation plan to evaluate the litigation strategy of the PCLP participant. In addition, the bill extends eligibility for the PCLP Program once a CDC has been an active participant in the accredited lenders program during the 12 month period preceding the date the CDC submits its application.

The bill modifies current law that requires the premier lender to maintain a loss reserve of 10 percent of the CDCs exposure. SBA is directed to review CDCs on a regular basis to confirm that those with loan loss rates greater than 10 percent do not expose the Federal government to a risk of loss. SBA should take appropriate steps to insure that CDCs with loss rates in excess of 10 percent do not pose a risk of loss to the government.

The bill permits the premier lenders to maintain their loss reserves using segregated funds on deposit in federally insured institutions, or they can provide irrevocable letters of credit in a format acceptable to the SBA. If a loss has been sustained by the SBA, and funds are disbursed from the loss reserve to reimburse SBA for the CDC's share of the loss, the CDC must replenish the reserve account within 30 days.

The bill provides that each premier lender is to establish a goal of processing not less than 50 percent of their loan applications under the PCLP and extends the program through October 1, 2000. With respect to the processing goal, the Congress intends the goal as a target only, and expects Community Development Companies to use prudent judgment at all times in determining which applications are appropriate for processing under the streamlined PCLP procedures. This judgment should not be influenced by the 50 percent goal. The bill also requires SBA to promulgate regulations to carry out these changes within 120 days of enactment of this bill. Within 150 days after the date of enactment of this bill, SBA is to issue program guidelines and fully implement changes contained in this section.

7(a) Guaranteed Business Loan Program

The bill authorizes SBA to conduct background ''name'' checks on all prospective 7(a) and 504 borrowers using the best available means possible, including the Federal Bureau of Investigation, National Crime Information Center (NCIC), computer system if it is available. Although the presence of a criminal record does not act as an absolute bar to participation in the SBA's loan programs, the Congress is concerned that persons convicted of fraud, embezzlement, and similar crimes may have access to SBA loans. Congress is also concerned that, in conducting these checks, undue delay in loan approvals will be detrimental to small business borrowers and to the programs' viability. In implementing this authority, the SBA should explore the effectiveness of a sampling methodology provided that all prospective borrowers are required to provide the information necessary to enable such a check to be conducted.

The bill directs SBA to undertake a study on its efforts to increase lender approval, servicing, foreclosure, liquidation and litigation of 7(a) loans and to report to the Congress within six months of enactment of this Act.

The bill includes a requirement that SBA submit a detailed report to the Congress and the General Accounting Office on its plans for installation of a computerized financial tracking and loan monitoring system. SBA is directed to report to the House and Senate Committees on Small Business and the General Accounting Office within six months of the enactment of this Act. No funds can be obligated or spent on this system until 45 days after the report is received by the Committees and GAO.

TITLE III: WOMEN'S BUSINESS ENTERPRISES

Title III addresses the non-credit programs that serve women who own or seek to start their own business.

Section 301. Interagency Committee Participation

The bill provides that each designee to the Interagency Committee report directly to the head of their respective agency on the status of the Interagency Committee's activities.

The bill does not authorize appropriations to support the activities of the Interagency Committee. The agencies and departments on the Interagency Committee are to allocate existing personnel and resources to support participation on the Interagency Committee.

Section 302. Reports

The bill directs the Interagency Committee to transmit its annual report to Congress and the President through the SBA. This section deletes the requirement that the Interagency Committee's report include recommendations from the National Women's Business Council and requires that the report address the Committee's efforts to meet its statutory duties.

Section 303. Duties of the National Women's Business Council

In order to remove an inconsistency in current law, the bill directs the National Women's Business Council to submit its recommendations and reports to the Administrator of the SBA through the Assistant Administrator for the Office of Women's Business Ownership. The bill requires the Council to report annually to Congress and the President, and it must include a status report on the Council's efforts to fulfill its duties

under sections 406 (a) and (d) of the Small Business Act.

Section 304. Council Membership

Under the bill, the SBA Administrator is to appoint the Council members after reviewing the recommendations of the Chairmen and Ranking Minority Members of the Committees on Small Business in the Senate and House of Representatives. The Administrator shall give full consideration to the recommendations provided by the Chairmen and Ranking Minority Members. This is to enhance the Council's ability to fulfill its role as an independent advisory body to the Congress, the President and the Administrator through the Assistant Administrator of the Office of Women's Business Ownership.

The bill establishes staggered terms for the Council members.

The bill expands the Council to 14 members, plus a chair who should be a prominent business woman appointed by the President. Under current law, there are nine members (four business owners and five women's business organizations' representatives). The bill increases the number of women business owners to eight and increases the number of representatives of women's business organizations to six and includes language expressly recognizing that this category is to include representatives of local Women's Business Centers. The bill removes the word ''national'' as a qualifier for the type of organizations that can be represented on the Council. The bill also directs the SBA Administrator to give appropriate consideration to rural versus urban diversity when selecting Council members.

Section 305. Authorization for Appropriations.

The bill authorizes the appropriation of $600,000 for Fiscal Years 1998 through 2000 with $200,000 targeted for research on women's procurement and finance issues as authorized in section 306 and 307. Any funds appropriated under this section are to be used solely for the activities and duties of the Council, and the Council is required to review and approve its operating and research budget each year.

Prior to funds being appropriated for research under section 307, the Council shall provide the Senate and House Committees on Small Business with a description of the proposed research study and resulting report. Such proposals are to be delivered to the Committees with SBA's annual budget request.

Section 306. National Women's Business Council Procurement Project.

The bill authorizes the National Women's Business Council to conduct a study of issues related to Federal procurement opportunities for businesses controlled and owned by women.

Although women-owned business now represent over ⅓rd of all businesses, they receive a minute share of Federal procurement dollars. In 1994, the Federal Acquisition Streamlining Act (FASA) established a modest government-wide goal of 5 percent for Federal contracts being awarded to women-owned businesses. The study directed by this bill is to gain a greater understanding of the Federal government's poor performance in working with this growing sector. Specifically, the National Women's Business Council is to conduct a study of the Federal government's procurement history in attracting and awarding contracts to women-owned business using existing data collected by agencies. The bill also requires the National Women's Business Council to prepare a report on the best procurement practices of the Federal government and the commercial sector and to recommend policy changes.

The bill provides contract authority to the Council to carry out the research initiatives and resulting reports authorized under sections 306 and 307. All contracts shall be awarded in accordance with the Federal Acquisition Regulations.

Section 307. Studies and Other Research.

Upon completion of the Federal procurement study under section 306, the Council is authorized to conduct other research relating to the award of Federal prime contracts and subcontracts to women-owned businesses, and access to credit and investment capital by women entrepreneurs, as the Council determines to be appropriate.

Section 308. Women's Business Centers.

The bill increases the authorization for creating Women's Business Centers (previously called Women's Business Demonstration Sites) from $4 million per year to $8 million per year. Grantees awarded funds under this section will be eligible to receive funds for five years rather than three years as provided under current law. Changes to the matching funds requirement as follows:

	Year 1	Year 2	Year 3	Year 4	Year 5
Current law	1 non-Federal; 2 Federal	1 non-Federal; 1 Federal	2 non-Federal; 1 Federal	No funds	No funds
Reauthorization	1 non-Federal; 2 Federal	1 non-Federal; 2 Federal	1 non-Federal; 1 Federal	1 non-Federal; 1 Federal	2 non-Federal; 1 Federal

The bill provides that grantees conducting a three year program as of the day before the effective date of this bill may apply to SBA to receive funds for two additional years. Such Centers that were in year 3 of a 3 year project on September 30, 1997 and that are approved to receive funds in years 4 and 5 will be subject to the matching requirements applicable to year 5 under this bill. The Congress intends that Centers which have a history of successful operation in this program receive funds to continue for years 4 and 5.

The bill includes language providing a definition of ''women's business center site.'' This language reflects the fact that existing Women's Business Centers may submit applications for grants to create new sites in their state or neighboring states; however, selection must be made in accordance with the criteria provided in the Act.

The bill also includes a list of duties and responsibilities of the Assistant Administrator for the Office of Women's Business Ownership, and upgrades the position of Assistant Administrator for the Office of Women's Business Ownership to a position in the Senior Executive Service.

The bill includes language to codify the practice of allowing Women's Business Center grant recipients to pursue other sources of Federal funds. Accordingly, funds received from other Federal agencies do not qualify as non-Federal funds under the matching funds requirement of this section. The additional funds obtained by a Women's Business Center do not effect the level of non-Federal funds required to receive its Federal funds under this section. In addition, the performance of other Federal contracts shall not hinder the ability of the Women's Business Center grantee from fulfilling its obligations under this section.

The bill amends the criteria for selecting grant applicants under this section to include the ''location for the Women's Business Center site.'' This language is to ensure that preference be given to applications for states without existing Centers. SBA should allocate at least 1/5th of the funds appropriated each year to the creation of new sites, with preference given to those in states not having a Center.

On the use of appropriated funds, the bill expressly prohibits the use of the funds appropriated under this section for any purposes other than grant awards, except that, in Fiscal Year 1998 only, up to 5 percent of the funds appropriated under this section are authorized to be used to supplement funds in SBA's salaries and expense budget for the administration of this program. No funds appropriated under this section may be reprogrammed by SBA or used for programs authorized by any other section of this Act without first notifying Congress. SBA needs to change its practice of using funds appropriated under this section for personnel and administrative overhead. SBA should include in its Fiscal Year 1999 budget request a line item in the salaries and expenses budget to reflect the actual cost of administering this important program. To assist with Congressional oversight, the SBA is directed to provide the Senate and House Committees on Small Business with a quarterly accounting within 20 days of the end of the Fiscal Year quarter detailing all expenditures for the Women's Business Centers program in Fiscal Years 1998, 1999, and 2000. In Fiscal Year 1998, the report shall identify whether each expenditure was funded by appropriated grant funds or SBA's salaries and expense budget.

In Fiscal Year 1998, up to 5 percent of the funds appropriated for Women's Business Center grants can be used only for administrative expenses associated with: (a) continued development and implementation of the computerized data reporting and collection system; (b) selection and oversight of the grantees; and (c) holding a training seminar for new grantees and existing programs. All other administrative costs are to come from the agency's salaries and expenses budget.

SBA is directed to: (a) award the contract for the computer data system competitively; (b) ensure that the Office of Women's Business Ownership has sufficient personnel dedicated to the oversight of the program by expanding the number of full time staff dedicated to this program to at least two and by better utilizing the District Office staff; and (c) ensure that the seminar is truly educational in nature, with any travel, per diem, and other overhead expenses for SBA staff paid from the salaries and expenses budget.

The computer data system should be designed to track outcomes, such as those named in the statute to be contained in the annual report to the Committees on the effectiveness of the program. The contractor should (a) provide technical assistance to ensure that the Centers know how to use the system and (b) work with a representative group of Centers to ensure that the system is compatible with their activities.

TITLE IV: COMPETITIVENESS PROGRAM

Subtitle A—Small Business Competitiveness Program

Section 401. Program Term.

The bill amends the Small Business Competitiveness Demonstration Program Act of 1988 to make the program permanent.

Section 402. Monitoring Agency Performance.

The bill contains a provision to change the monitoring and reporting frequency from quarterly to annual (October 1 through September 30).

Section 403. Reports to Congress.

The bill amends section 716(a) of Small Business Competitiveness Demonstration

Program Act of 1988, to assure that annual reports are submitted to the House and Senate. The bill also amends the Act to require the Small Business Administration be the Executive Agency responsible for the development and submission of the annual report and not the Office of Federal Procurement Policy. The bill also makes a technical amendment to the Act to correctly reflect the name of the House of Representatives Committee to receive the report from the ''Committee on Governmental Operations'' to the ''Committee on Government Reform and Oversight.''

Section 404. Small Business Participation in Dredging.

The bill makes this program permanent.

The bill recognizes that a transition from the standard industrial classification (SIC) code to the North American Industrial Classification Code (NAICC) is likely to occur in the future; however, the Small Business Administration (SBA) first needs to convert the small business size standards to the new code and the Federal Procurement Data System must also be converted to the NAICC. The Senate Committee on Small Business encourages the Administrator of SBA, the Administrator of the Office of Federal Procurement Policy (OFPP) and the Secretary of the Department of Commerce to develop a plan and time table for implementing the NAICC.

Subtitle B—Small Business Procurement Opportunities Program

Section 411. Contract Bundling.

Section 411 amends section 2 of the Small Business Act (15 U.S.C. 632) emphasizing Congressional policy to provide small businesses, to the maximum extent practicable, prime contracting and subcontracting opportunities and to eliminate obstacles to their participation and to avoid unnecessary and unjustified bundling of contract requirements.

Section 412. Definition of Contract Bundling.

The bill amends section 3 of the Small Business Act (15 U.S.C. 632) to define the terms ''bundling of contract requirements,'' ''bundled contract'' and ''separate smaller contract.''

Section 413. Assessing Proposed Contract Bundling.

The bill amends section 15 of the Small Business Act (15 U.S.C. 644) to create a new subsection (e) which establishes the procedure to be followed by contracting officials to insure that small business concerns are afforded the maximum practicable opportunity to compete for prime contracting and subcontracting opportunities. Specifically, the bill directs that if a requirement could lead to a ''bundled requirement'' the agency shall conduct market research to determine whether consolidation is necessary and justified.

Section 413 encourages small businesses to form contract teams to compete for bundled requirements and provides that such a team will not affect a business's status as a small business concern for any other purpose. In establishing a contract teaming authority which amends SBA's small business affiliation rules, Congress recognizes that some types of affiliation should not disqualify a small business from participating in Federal procurement programs established to encourage small business contracting. Similarly, Congress directs SBA to study the appropriateness of changing the small business affiliation rules for instances of investments by another entity if no other indicia of control or negative control is evident. In the teaming provisions of the bill and the previous legislation authorizing an exception to the size rules for investments by an SBIC or any one of a range of professional investors. Congress has recognized certain situations which should be encouraged and should not disqualify an entity from small business status. The Agency should report to the Committees on Small Business on its findings by April 30, 1998, which will enable the Congress to address the issue legislatively if necessary.

The ability of small businesses to team with other small businesses should not be considered an opportunity for procurement officials to justify a decision to bundle one or more requirements. The justification for bundling must be based solely on savings, improvements, and enhancements that accrue to the agency and that overwhelm any infringement of small business opportunity. The mere fact that small businesses could or might team does not lower the burden for agency justification of bundling.

The bill also amends section 15 of the Small Business Act (15 U.S.C. 644(a)) to direct that the Small Business Administration procurement review procedures shall be required if a solicitation involves an unnecessary or unjustified bundling of contract requirements. Nothing in this section or section 412 is intended to amend or change in any way the existing obligations imposed on a procurement activity or the authority granted the Small Business Administration under section 15(a) of the Small Business Act.

Section 414. Reporting of Bundled Contract Opportunities.

Section 414 contains a requirement that Federal agencies report through the Federal Procurement Data System all contract actions involving bundled requirements with an anticipated contract award value exceeding $5,000,000.

Section 415. Evaluating Subcontract Participation in Awarding Contracts.

The bill adds a new substitute section 8(d)(4) of the Small Business Act (15 U.S.C. 637(d)(4)) to require that bundled contract requirements to be awarded pursuant to the negotiated method of procurement shall use the contractor's small business subcontracting plan and past small business subcontracting performance as to significant factors for the purposes of evaluating offers.

Section 416. Improved Notice of Subcontracting Opportunities.

The bill amends section 8 of the Small Business Act (15 U.S.C. 637) to allow prime contractors and subcontractors (at any tier) with an estimated subcontracting opportunity in excess of $10,000 to provide public notice of subcontracting opportunities through the Commerce Business Daily.

Section 417. Deadlines for Issuance of Regulations.

The bill requires that proposed implementing regulations be published not later than 120 days after the date of enactment and that final regulations be published not later than 270 days after the date of enactment.

TITLE V: MISCELLANEOUS PROVISIONS

Small Business Technology Transfer

Section 501. Small Business Technology Transfer Program.

The bill reauthorizes the STTR program through Fiscal Year 2001 and makes three changes to the program: (1) extends SBA's reporting requirements on the program to include the House Committee on Science and Technology; (2) directs any Federal agency participating in the Small Business Innovation Research (SBIR) program or STTR to include information relating to such participation in its requirements under the Government Performance and Results Act (GPRA); and (3) directs SBA to conduct outreach to states with low levels of participation in the STTR program.

The new ''outreach program'' is intended to increase the STTR grant application pool from which STTR grant applications are selected by increasing the number of applicants from states that received under $5,000,000 in awards during Fiscal Year 1995. The program is intended to improve the overall number and quality of applications for awards.

The authorization contained in this section shall be taken entirely from funds authorized for use by the Small Business Administration. No funding derived from the STTR agency research set-aside may be used for the outreach program.

In addition, the bill adds a new subsection that requires STTR and SBIR programs to be included in agencies' strategic plan updates required under the Government Performance and Results Act (5 U.S.C. 306 (b)).

Small Business Development Centers

Section 502. Small Business Development Centers.

The bill includes substantial increases in the authorized grant amounts available to SBDCs under the ''National Program.'' Because the funds under the program are allocated on a population basis some states with small populations, but which are large geographically, have been receiving too small a Federal grant to serve adequately its small business population. In order to correct this inequity, the bill includes a minimum grant amount of $500,000 for the smaller population states. So long as a state provides a matching amount of non-Federal funds, it will receive $500,000 even if it would not otherwise be entitled to this amount under the ''National Program.'' Similarly, if a state provides a matching amount of less than $500,000, it will receive a grant in the amount of the matching contribution.

The Congress views the non-Federal matching contribution requirement to be an essential attribute of this program and a key to its success. Therefore, if any state is unable to match the full $500,000 authorized in this bill as a funding floor, it should be funded up to the level that it is able to match.

The Committee urges the Small Business Development Centers to inform and assist small businesses in complying with energy, safety, labor, tax, and related Federal, state, and local regulations, and to work with the technical and environmental compliance assistance programs established in each state under section 507 of the Clean Air Act Amendments of 1990 or state pollution prevention programs to work with Small Business Development Centers to inform and assist small businesses in complying with environmental regulations.

Section 505. Asset Sales.

Section 505 directs SBA to provide the Committees on Small Business of the Senate and House of Representatives with copies of the draft and final plans describing its initiative to sell its portfolio of defaulted guaranteed loans and direct loans in Fiscal Years 1998 and 1999. It is the understanding of the Committee that SBA intends to conduct an initial sale of $100 million from the Disaster loan portfolio. We expect the Agency to provide the Committees with copies of preliminary plans at the time they are prepared for evaluation by SBA, as sell as any amended or final plans chosen by SBA to carry out the sales of the assets covered by this program and copies of reports analyzing the results of each sale.

Oversight of Regulatory Enforcement

P.L. 104–121 established the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Enforcement Fairness

Boards. The Ombudsman's primary responsibilities are to solicit and record comments from small businesses and compile an evaluation, similar to a ''customer satisfaction'' rating, of each agency's performance based on the comments received from small businesses and the Fairness Boards. A ''report card'' of these agency ratings is to be published each year.

The Fairness Boards, composed of five small business owners in each of the SBA's ten regions, provide small businesses with an opportunity to review and assess government agencies' enforcement activities involving small businesses. The Fairness Boards may hold hearings, gather information as appropriate, and offer recommendations and comments on agency enforcement policies and practices to the Ombudsman for inclusion in his report. The Ombudsman is the federal official designated to assist the Fairness Boards by coordinating their independent activities. The Ombudsman is directed under the law to include their advice and recommendations in his reports to the agencies and Congress.

The Ombudsman must pursue its statutory mission and allocate its resources in accordance with the priorities set forth in the statute. Soliciting comments and developing suggested routine procedures for agencies to implement, to facilitate and to encourage small businesses to provide comments to the Boards and the Ombudsman is a significant undertaking. Careful attention and a thorough effort is required of the Ombudsman to convert these comments into the annual agency report cards called for by the law. The purpose of the law's requirements is to give small businesses a voice in evaluating each agency's performance, and the resulting ratings are intended to measure whether agencies are treating small businesses more like responsible citizens than potential criminals.

Annual reports issued by the Ombudsman on agency responsiveness in enforcement activities must be based on comments received from small businesses, not based on self-assessment by the agencies themselves or on the Ombudsman's evaluation of the agencies' efforts. P.L. 104–121 instructs the Ombudsman and Fairness Boards to base their report on ''substantiated'' comments. The Ombudsman should verify comments by contacting the commenting small businesses, on a spot check basis as may appear necessary under the circumstances, rather than by going to the agency, if there is a reason to believe that any particular comments are fictitious or in some way not the result of an actual interaction with Federal agency personnel.

Many small businesses fear retaliation for commenting on an agency's performance and, as a result, the Ombudsman and Fairness Boards have a sensitive task. Because of these confidentiality interests, the law requires the Ombudsman and Fairness Boards to rate agency performance according to the subjective views and comments submitted by small businesses. All agencies, however, have an opportunity to review and comment on the Ombudsman's draft report, but the Ombudsman is not authorized to forward to the agency or disclose in the report the identity of individual small businesses providing comments. The agencies' positions may be addressed by including a separate agency response section in the final report.

With limited resources, the statutory duties and responsibilities of the Ombudsman necessarily should be strictly followed, and resources should not be used to undertake activities beyond the scope of the statute. Ordinarily, the law does not contemplate that the Ombudsman will make a determination of the factual and legal merits of the enforcement action contained in comments received by the Ombudsman. The law does not anticipate a mediation role for the Ombudsman to create a forum for agencies to negotiate the resolution of individual comments or complaints.

TITLE VI: HUBZONE PROGRAM

The bill creates a new program known as the ''HUBZone Act of 1997.'' This program was approved by a vote of 18–0 in the Committee on Small Business and subsequently included in S. 1139 as Title VI.

The purpose of the HUBZone Act of 1997 is to provide relief to urban and rural areas of the United States which have historically been identified as economically distressed areas. The HUBZone Act of 1997 is a jobs program intended to encourage small business concerns to locate in, and employ residents of, HUBZones. One of the principal purposes of this Act is to decrease the unemployment, underemployment, and low quality of life conditions that tend to be concentrated in inner cities and some rural areas, including Indian Reservations, throughout the U.S.

The HUBZone Act of 1997 is crucial to our Government's attempt to reform welfare by providing meaningful economic opportunities to individuals who live and work in HUBZones. Every effort should be made in the implementation of the HUBZone Act by SBA and other Federal agencies to provide an effective opportunity for the contracting preferences to be used as the basis for meaningful levels of contract awards. Special care must be taken to insure that routine dependency on existing programs does not hinder the full and fair implementation and utilization of HUBZone contracting procedures by federal agencies.

The HUBZone Act of 1997 is designed to bring qualified HUBZone small business concerns and their employees into the mainstream of government contracting at both the prime and subcontract levels by providing procurement preferences and through the establishment of contracting goals. The Act establishes three specific Federal procurement preferences for ''qualified HUBZone small business concerns.''

Section 602. Historically Underutilized Business Zones.

This section establishes the framework for implementation of the HUBZone Act of 1997. It defines the terms under which a small business qualifies as a HUBZone small business. In addition, Section 602 sets forth the authority for a contacting officer for a Federal agency to restrict competition for a contract to a qualified HUBZone small business when he determines there are two or more qualified HUBZone small business concerns that are likely to submit offers and that award can be made at a fair market price. In the circumstance where there is only one qualified HUBZone small business concern and the contracting officer is authorized to make a non-competitive award of a contract that does not exceed $3 million for service contracts and $5 million for manufacturing contracts. In this circumstance, the contracting officer must determine that the award can be made at a fair and reasonable price.

Section 602 gives the Small Business Administration new, discretionary authority to appeal a decision of a contracting officer not to award a contract under this title. The Administrator would have five days after receiving notice of this adverse decision to notify the contracting officer that SBA may appeal the decision, and within 15 days the Administrator may appeal the decision to the head of the department or agency.

Section 603. Technical and Conforming Amendments to the Small Business Act.

The bill amends various provisions of the Small Business Act and the technical and conforming amendments are implemented to effectuate the requirements of the program in a consistent manner with other statute.

Section 604. Other Technical and Conforming Amendments.

This section of the bill, addressing other technical and conforming amendments, is intended to amend the Competition in Contracting Act (10 U.S.C. 2304(b)(2)) and (41 U.S.C. 253(b)(2)) to allow for HUBZone set-aside procedures in Federal prime contracting for contract requirements in excess of the simplified acquisition threshold. The effect of the bill is to amend the Competition in Contracting Act (10 U.S.C. 2304(c)) and (41 U.S.C. 253(c)) to provide HUBZone contracting authority to award HUBZone prime contracts using procedures other than competitive procedures for Federal prime contract requirements greater than the simplified acquisition threshold and not greater than $5,000,000, in the case of manufactured items and $3,000,000, for all other contract opportunities.

Section 605. Regulations.

The bill requires the Small Business Administration to publish within 180 days of enactment the final regulations to carry out the program. The Senate bill further requires the Federal Acquisition Regulatory Council to publish the HUBZone implementing regulations within 180 days of the date the SBA published its final regulations.

Section 606. Report.

The bill requires the Administrator of the Small Business Administration to submit a report to the Senate and the House of Representatives Committees on Small Business by March 1, 2002. The report is to evaluate the implementation of the HUBZone program, as well as the effectiveness of the program.

Section 607. Authorization of Appropriations.

The bill amends the Small Business Act to authorize the appropriation of $5,000,000, to the Small Business Administration for implementation of the HUBZone program for each Fiscal Year, 1998, 1999 and 2000.

TITLE VII: SERVICE DISABLED VETERANS

This title includes the House language designed to enhance the Small Business Administration's efforts to improve opportunities for service disabled veterans and provide enhanced outreach to that group. The Congress believes strongly that these individuals deserve far better consideration from the Federal agencies that they are currently receiving.

Section 701. Purposes.

This section outlines the intent of the Congress to enhance entrepreneurial opportunities for service disabled veterans and to promote their efforts to participate in the small business community.

Section 702. Definitions.

This section defines the terms ''eligible veteran'' and ''small business concern owned and controlled by eligible veterans'' for the purposes of this title and the Act.

Section 703. Report by the Small Business Administration.

This section requires the Small Business Administration to study the needs of small businesses owned by eligible veterans and report to the Committees on Small Business of the House and Senate on the steps needed to improve and enhance the role of service disabled veterans in the small business community and the economic mainstream of the country. The Congress expects the Small Business Administration to provide this information in detail and well within the time allotted. The Congress expects the Small Business Administration to reach out for assistance in this task to the various veterans

organizations, State run programs for veterans, and other interested groups for assistance in completing this study.

Section 704. Information Collection.

This section directs the Secretary of Veterans Affairs, in cooperation with the Administrator of the Small Business Administration, to identify annually the small businesses owned and controlled by eligible veterans and to work to keep them informed concerning Federal procurement opportunities available to them.

Section 705. State of Small Business Report.

This section directs the Small Business Administration to include information concerning small businesses owned and controlled by eligible veterans in its annual report to the President and Congress, ''The State of Small Business.''

Section 706. Loan to Veterans.

This section reinforces the Small Business Administration's preexisting ability to make loans to small business concerns owned and controlled by service disabled veterans. The Congress takes this step to cure a lingering misunderstanding that the Administration's requested defunding of the Veteran's direct loan program in no way diminishes the Small Business Administration's responsibility to assist veterans through the 7(a) program.

Section 707. Entrepreneurial Training, Counseling, and Management Assistance.

This section directs the Administrator to ensure that small business concerns owned and controlled by eligible veterans are given full access to the Small Business Administration's business assistance programs, including SCORE and the Small Business Development Centers.

Section 708. Grants for Eligible Veterans' Outreach Programs.

This section amends the Small Business Administration's existing authority to include making grants to, or entering into cooperative agreements with, organizations that have or may establish outreach and assistance programs for eligible veterans.

Section 709. Outreach for Eligible Veterans.

This section directs the Administrator of the Small Business Administration, the Secretary of Veterans Affairs, and the Assistant Secretary of Labor for Veterans' Employment and Training to develop cooperatively an outreach and assistance program designed to coordinate the activities of their respective agencies and disseminate the information about those programs to eligible veterans.

Mr. KERRY. Mr. President, it is with great satisfaction that I rise today to speak on behalf of S. 1139, the Small Business Reauthorization Act of 1997. The legislation now before the Senate is the product of negotiations between the House and Senate to resolve the differences in the bill passed by the Senate in early September and the bill crafted by Chairman TALENT and Congressman LAFALCE. I am pleased that so many of the provisions of the original Senate bill have been retained in virtually identical form, such as the welfare-to-work Microloan Initiative, the extension of the Small Business Technology Transfer (STTR) program, the Women's Business Centers program and the HUBZone Act. I congratulate Chairman BOND for his leadership and stewardship through this year's reauthorization process. His willingness to craft a bipartisan bill has ensured that the Small Business Administration will continue to operate effectively in the years to come providing support to thousands of America's small businesses.

A component of this bill which I believe to be one of the most important to assist our aspiring entrepreneurs is the Microloan Program. The Microloan Program was created 6 years ago through the vision and hard work of Senator BUMPERS. Since then, the Microloan Program has operated on a pilot basis, providing loans in amounts averaging $10,000 to small businesses, and more importantly, providing technical assistance to these businesses on how to better operate their enterprises. One of the major reasons why new businesses in America fail is because so many people who want to start their own companies really have little idea on how to conduct the day-to-day financial operations that are so crucial to keeping a business afloat and making it a successful enterprise. The technical assistance provided by the intermediaries in the Microloan Program has had an impressive impact on the success of businesses participating in this program. Moreover, the losses to the Government have been minuscule, despite the higher risk associated with micro lending. In fact, since the Microloan Program has been in existence, there has been only one default of an intermediary's loan from the SBA. That is an amazing fact, and one which I believe demonstrates the financial soundness of the Microloan Program. The Congress wholeheartedly supports making the Microloan loan and technical assistance programs permanent SBA programs, and do so in this bill.

S. 1139 also contains provisions for a new initiative for the Microloan Program, one which will go a step further to reach aspiring entrepreneurs who may now be on Government assistance. In addition to loans and technical training, participants in this welfare-to-work Microloan initiative will be able to receive assistance to help defray child care and transportation expenses, two of the biggest obstacles welfare recipients face in their attempts to become active, contributing members of society. Inclusion of the welfare-to-work Microloan Program in the Small Business Reauthorization Act allows SBA to apply knowledge learned over the last 6 years to address one of the most pressing issues facing us today.

In June, Senator DOMENICI, Senator BOND and I introduced the Women's Business Centers Act. I am extremely pleased that the major provisions of that bill are included in the legislation now before us. Authorization for funding the Women's Business Centers Program has been doubled in this bill, and extends the eligibility of awardees from 3 years to 5 years. This bill also provides for studies to be conducted on contracting and finance issues as they affect women-owned businesses. This section of the Small Business Reauthorization Act will strengthen a sector of our economy that contributes over $1.5 trillion to the American economy and employs more Americans than Fortune 500 companies.

The Small Business Technology Transfer [STTR] program is reauthorized for an additional 4 years through this act. An offshoot of the very successful SBIR Program, STTR has been joining small businesses and non-profit research institutions for the past four years in an attempt to make better use of federally sponsored high technology research. This bill strengthens the STTR Program by requiring more accurate data recording by the SBA and participating agencies, and requires those participating agencies to include information regarding the SBIR and STTR Programs in their strategic plans required by the Government Performance and Results Act. By doing this, we in Congress can better evaluate programs such as STTR and what provisions might best assist the kind of companies participating in the program and what changes could result in a stronger STTR when we revisit it for reauthorization 4 years from now.

Chairman BOND led the way on an integral part of the reauthorization act, the HUBZones Program. This program seeks to aid small business concerns located in the poorest areas of our country by providing better opportunities to contract with the Federal Government. The HUBZone Act is the result of several years of work by Chairman BOND, and I congratulate him and his staff for this legislation which will certainly improve the economic situation of many American communities.

There are a few other components of the reauthorization act that I believe warrant mentioning at this time. The Community Development Company program, also called the 504 loan program, is continued through this legislation and will provide small businesses $2.3 billion of needed capital for their plant and equipment needs. The SBA's biggest loan program, 7(a), is authorized at $39.5 billion over the next 3 years, high enough to ensure continued support for those small businesses that need extra capital to grow their businesses. In addition, this legislation also contains a provision that seeks to protect small businesses from the practice of contract bundling, which can be harmful to small business. Bundling is when a Federal agency rolls several contracts into one big contract. This practice effectively bars small businesses from participating in the lucrative Federal Government contracting process on those contracts. The language contained in this bill will help alleviate this problem to some degree so that small businesses are not left out in the cold, and will require the Government to keep records on bundled contracts valued at more than $5 million.

The bill before us contains some provisions that the House included in their bill and that we have not seen before. One such provision is title VII of

the bill which contains language that directs SBA to conduct a study on the potential to aid small businesses that are owned by service disabled veterans. I believe it is important to conduct research into this issue and see if the opportunity exists to better assist these businesses.

There are other components of the Small Business Reauthorization Act which I have not mentioned here but will be helpful to small businesses participating in the SBA's programs. The Small Business Investment Companies and Small Business Development Centers Programs are both modified through this act. The Pilot Preferred Surety Bond Guarantee Program is also extended in this legislation.

Mr. President, I would like to conclude by again thanking the Chairman of the Small Business Committee, Senator BOND, for his leadership throughout the year on reaching this point and passing what I consider to be a very meaningful and effective piece of legislation. It is clear that the Small Business Administration will be assured of its continued support by Congress as it moves ahead to the 21st century assisting the driving force of our economy, American small business.

WOMEN'S BUSINESS CENTERS

Mr. DOMENICI. Mr. President, I appreciate the opportunity of commending Senator BOND for his efforts in bringing this Small Business Reauthorization Act to the floor for consideration. In particular, I am grateful for his deep commitment and tireless dedication to improving the Small Business Administration's [SBA] Women's Business Centers program. As a result of his work, this program will be expanded and modified so that it targets more appropriately the thousands of women entrepreneurs who provide jobs and economic growth to their local communities.

I also want to commend Congresswoman NANCY JOHNSON for her strong support of this program. My legislation, S. 888, the Women's Business Centers Act of 1997, introduced in behalf of myself, Senator BOND, Senator KERRY and 23 other cosponsors, was the companion bill to Representative JOHNSON's legislation. Due to the strong bipartisan support of Chairman BOND and other members of the Senate Small Business Committee, S. 888 was incorporated into this reauthorization bill. Congresswoman JOHNSON has been a long-time and dedicated friend of women's business efforts, and I am most appreciative that we were able to work together on this important measure.

Many of us believe that the SBA must give renewed attention to one of its smallest but most successful business programs. This legislation, therefore, doubles the amount of funds available to Women's Business Centers, and it extends the grant period from 3 years to 5 years. It also changes the funding formula so that newly created business sites will have a more realistic Federal-to-non-Federal matching program. This latter issue is important because up to this point, women's business centers have been required to meet a much stricter matching grant requirement than have other grantees in the SBA's grant programs. I remain somewhat concerned, however, that existing business site grantees must still bear a slightly higher burden of matching fund requirements. Nevertheless, the overall changes to the Women's Business Centers Program are noteworthy and extremely positive.

By passage of this reauthorization language, Congress recognizes the essential role of women-owned small businesses to this country's local and national economies. Congress also recognizes the necessity of added SBA administrative and programmatic support to the women's program. The SBA must ensure that the Office of Women's Business Ownership [OWBO] has adequate staffing and resources to manage this expanded program. It must also provide any supplemental assistance OWBO may need to manage its ongoing program while developing new and creative activities to enhance its present portfolio. Frankly, a program of this nature demands tangible agency commitment to its success. While OWBO and its women's business clients have an impressive and outstanding programmatic record, this small program deserves much more attention from the Agency than it has received thus far. I am hopeful that next year and in the years to come the SBA will work more closely with OWBO, as well as with Congress, to ensure that women's businesses are provided the necessary resources to continue their vital entrepreneurial endeavors.

I believe it is also important to give credit to the many able and committed directors and staff of the Women's Business Centers throughout the country. I know these professional women, like those of Agnes Noonan and her staff in my State of New Mexico, have counseled countless thousands of potential business clients and have established equal numbers of successful small businesses. Their tasks have not been easy, but they have met their management obligations while also creating an impressive and wide-ranging network of business colleagues to address the special challenges of women-owned businesses. The techniques they've learned and the expertise they share with one another have been instrumental in the overall success of this SBA program.

Once again, I commend Senator BOND for his attention and commitment to the Women's Business Centers Program. His able staff, particularly Ms. Suey Howe and Mr. Paul Cooksey, provided excellent professional support so that this program was reviewed and modified appropriately. I am very pleased Chairman BOND and other members of the committee have given this issue the attention it deserves. Women-owned businesses are an integral component of our Nation's business sector and are instrumental to our country's overall economic health. The efforts of the Chairman and the committee will ensure that this SBA business program continues its obligations to so many deserving and successful women entrepreneurs. Thank you for the opportunity of sharing my support of this important program.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Missouri.

The motion was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote by which the motion was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE ADMINISTRATION'S HUMANITARIAN DEMINING INITIATIVE

Mr. LEAHY. Mr. President, I would like to speak briefly about an announcement the administration is making today to increase funding for humanitarian demining programs and appoint a demining czar. This is, of course, on the subject of landmines, which has been a concern of mine for many years. I have not received all the details, but I understand the administration plans to spend $80 million on humanitarian demining programs next year, which is a significant increase over the current level.

They also plan to seek additional support from other governments, corporations, and foundations. Their goal is to raise $1 billion to clear most of the world's landmines by the year 2010. I also understand Ambassador Karl Inderfurth, our Assistant Secretary for South Asia and formerly the U.S. Alternate Representative to the United Nations, is to become the new demining czar.

I can think of no better person to lead this effort than Ambassador Inderfurth. The Ambassador, known as Rick to his friends, is a long-time friend of mine. I have immense respect and admiration for him. I have watched him prowl the halls of the United Nations and buttonhole other representatives, as did Secretary of State Madeleine Albright when she was our U.N. Representative, to get support for an international ban on antipersonnel landmines.

Rick has been a passionate voice for the victims of landmines. I am very grateful that he has agreed to take this on, especially as he already has a full-time job that would be more than enough for most people. He will do a superb job.

This announcement is being made today by Secretaries Albright and Cohen. I commend them both, and I say that it is welcome news.

While its goals sound awfully ambitious, some may say even unrealistic, time will tell. They have my full support. This is an area in which not nearly enough has been done, and the United States has a great deal to offer.

Mr. President, today we clear landmines much the same way that we did in World War II or Korea. It takes an enormous amount of time and it is extremely dangerous. There is very little money, especially as most of these landmines are in the Third World.

Our leadership in this area could help immeasurably. Look what we did after World War II with the tens of millions of landmines spread all over Europe. We cleared most of them in a decade. There are still parts of Europe that have landmines today, but most of them are gone.

The administration's plan builds on what the Congress began some years ago. We established humanitarian demining programs at both the Departments of Defense and State. At the beginning, the Pentagon did not want to do it. They said it was not their mission. They said their job was breaching mine fields, not clearing mines. That is one reason there are so many unexploded landmines killing and maiming innocent people around the world.

What happens, of course, Mr. President, is that the world's militaries leave millions of landmines behind once the wars end, the soldiers go home, the guns are unloaded, the leaders sign the peace agreements, and hands are shaken.

But the landmines stay, and some unsuspecting child or farmer steps on them—a child going to school or someone going to gather water or firewood. Someone trying to raise crops to feed their family. Or an unsuspecting missionary.

There are so many victims, long after anybody even remembers who was fighting whom, or why. There are Russian mines, American mines, Italian mines and mines from other countries in hundreds of varieties in over 68 countries. It is estimated that it would cost, at the rate we are going now, billions of dollars over decades and decades to get rid of them.

Over time, the Pentagon has become more supportive. I hope this new initiative means that they are now fully on board. They have the expertise and technology to make an important contribution. They could cut years, years off the time it would take to demine the world.

Again, as I have said, we are using the same demining technologies that were common years ago. We are not taking advantage of some of the technology and expertise available today. And the demining programs that we now use have been in place for several years have a mixed record. The administration says they have spent some $150 million to date. I wonder how many landmines have been removed for all that money? I suspect if anyone did the arithmetic it would come to hundreds of dollars, possibly even thousands of dollars, to remove each landmine. Of course, the tragic irony of that is that it only costs $3 or $4 to put the landmine in the ground in the first place.

So I suggest, in building on what Secretary Albright and Secretary Cohen said today, that we begin with a top-to-bottom review of our demining efforts. They are too uncoordinated among government agencies. This should include a thorough review of the program that is in the Pentagon itself.

The Pentagon should play a central role, but I am concerned that some Pentagon officials have been more interested in using this program to make contacts with foreign military personnel than to build the sustainable demining capabilities in these other countries. The soldiers we send to do the training in places like Eritrea and Mozambique and other mine-infested countries are among our best, and they do a terrific job. There is no one more proud of them than I am. But we need to be sure that when they leave, the people they have trained have the knowledge and the equipment and the support to carry on.

We have the Humanitarian Demining Technologies Program. This program funds research and development on new demining technologies. This program, again, established by the Congress three years ago, has the potential to revolutionize the way we detect and destroy landmines and other unexploded ordnance.

This may be what enables us to make that quantum leap forward so that instead of taking decades and decades to get rid of the mines, we cut that time substantially. The Pentagon also has a lot to offer in this area, but it has not been fully supportive of it despite the best efforts of the people involved. As one who has spent nearly 10 years working to ban anti-personnel landmines, to support programs to clear mines and care for the victims, I must say that there should be some thought given to moving this program elsewhere or reorganizing it, because there needs to be much more coordination with the private sector and with other governments that are also working in this area.

Mr. President, there is another part of this that needs to be mentioned. Two years ago, the President of the United States went to the United Nations to urge the world's nations to negotiate a treaty banning antipersonnel landmines.

In December, over 110 governments will sign such a treaty in Ottawa. But the United States is not going to be among them. In fact, not only will we be absent, now we find the Pentagon is backtracking on the pledge it made a year ago to find alternatives to antipersonnel landmines.

So taken in this context, it is no surprise that the administration feels it must do something to counter the growing impression around the world that the United States has become an obstacle to an international ban.

Thirteen members of NATO and most of the world's producers and users and exporters of landmines will sign the treaty in Ottawa, but not the world's only superpower. We have taken the position that even though we are the most powerful nation history has ever known, we cannot give up our landmines but we want everybody else to give up theirs. Rather than lead this effort, we risk being left behind with a handful of pariah states with whom we do not belong. We are too great a nation for that.

No one should suggest that a ban is a substitute for demining. There are some 100 million unexploded landmines in the ground, and whether there is a ban or not they will go on maiming and killing until we get rid of them. We have to do that. But neither is demining a substitute for a ban. Why spend billions of dollars to get rid of the mines if they are simply replaced with new mines?

We need to destroy the mines that are in the ground. We need to stop the laying of new mines. Both are necessary to rid the world of these insidious weapons.

So I welcome this initiative. I will do everything I can to support it. But let us not fool themselves. The United States is about to miss a historic opportunity. We should sign the Ottawa treaty, just as we should do everything we can to lead an international demining effort to get rid of the mines in the ground.

Mr. President, I ask unanimous consent that an article in today's Washington Post, which describes how the Pentagon is walking away from its pledge last May to find alternatives to antipersonnel landmines, a pledge that at the time they said reflected their ''complete agreement'' with the President's goal of an international ban, be printed in the RECORD.

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

[From the Washington Post, Oct. 31, 1997]

ADMINISTRATION DROPS PLANS TO FIND SUBSTITUTES FOR ANTIPERSONNEL MINE

(By Dana Priest)

The Clinton administration has dropped its effort to find alternatives to a certain type of antipersonnel land mine, a move that has angered advocates of banning mines who say the president has retreated from his pledge to find a substitute for the weapon.

''There wasn't anything that conceptually made any sense,'' said a high-ranking Defense Department official who declined to be named. ''And there is no humanitarian need for such an alternative.''

Caleb Rossiter, director of Demilitarization for Democracy, which advocates an international land mine ban, said: ''This is a huge policy change.''

At issue are the millions of antipersonnel land mines used by U.S. troops to protect anti-tank minefields.

Since May 1996, Clinton has pledged to find alternatives to all mines this country uses, and the Pentagon has been studying various approaches. In January, when Clinton announced he would not sign an international treaty banning land mines, he directed the Defense Department ''to develop alternatives to antipersonnel land mines, so that by the year 2003 we can end even the use of self-destruct land mines.''

He also directed the Pentagon to find alternatives to the mines used on the Korean Peninsula by 2006.

At the same time, Clinton redefined the only type of antipersonnel land mine used by U.S. troops outside Korea—mines that are scattered around anti-tank mines to protect them from being breached by enemy troops. This is called a ''mixed system'' of anti-tank and antipersonnel mines. The administration now calls these antipersonnel land mines ''devices'' and ''submunitions.''

The practical result of this definitional change is that the Pentagon is no longer actively trying to come up with an alternative for these mines, of which the United States has more than 1 million.

''We are looking for alternatives to the Korean situation,'' said Pentagon spokesman Kenneth Bacon. ''The mixed packages are not a humanitarian threat.''

The reason the mixed packages are not a humanitarian threat is because they turn themselves off after a set period of time, usually three hours. Even so, from May 1996 until this January, Clinton still wanted to find alternatives to them in hopes of inducing countries that use the troublesome non-self-destructing mines to give them up.

Non-self-destructing mines, also known as ''dumb mines,'' are responsible for injuring or killing 25,000 people a year, many of them civilians.

U.S. negotiators working on the Ottawa treaty tried unsuccessfully to convince other countries to create an exemption for the antipersonnel mines used in anti-tank minefields.

Abandoning the search for alternatives, said Bobby Muller, president of the Vietnam Veterans of America Foundation, would make it impossible for the United States to ever sign the treaty as it is written.

''Our bottom line is for the U.S. to sign the treaty,'' said Muller, who also is part of the International Campaign to Ban Landmines, which won the Nobel Peace Prize this year. ''We are going to be in his [Clinton's] face. We are not going away.''

Yesterday the international campaign began airing eight days of Washington-broadcast television ads aimed at pressuring Clinton to sign the treaty or to pledge to sign it at a specified date.

Mr. LEAHY. Mr. President, let us hope that the Pentagon's pledge today to help lead an international demining effort is a lot longer lasting.

Mr. President, I have spoken on this subject so many times. I think of when I went to Oslo recently when governments were meeting there to talk about an international ban. And I was joined by Tim Rieser, of my staff, who has worked so hard on this, and David Carle. I met with the American negotiators who were there and had a chance to speak to the delegates and the NGO's and others who had gathered.

And I said: I dream of a world, as we go into the next century, a world where armies of humanity dig up and destroy the landmines that are in the ground and when no other armies come and put new landmines down.

If we did that, Mr. President, if the world did that, removed the landmines that are there, banned the use of new landmines, we would give such great hope to people everywhere.

Today, there are countries where families literally have to tether their child on a rope near where they live because they know within the circle of that rope is one of the few areas that is free of landmines. And the child can play only on the end of a leash like a dog.

These are the same places where people often go hungry. They cannot work in their fields without risking their lives. And they often have no choice. And when one of them loses a limb, or his or her life, the whole family suffers. That is the reality for millions of people, and that is why this demining initiative is so important.

Mr. President, I yield the floor.

Seeing nobody else seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SUPPORT OF NOMINATION OF BILL LANN LEE

Mr. LEAHY. Mr. President, I have spoken many times on the floor about the nomination of Bill Lann Lee to be the Assistant Attorney General in charge of the Civil Rights Division of the U.S. Department of Justice.

Mr. Lee testified before the Judiciary Committee. It was really the culmination of the American dream. A son of Chinese immigrants who went from living at the family laundry upon his father returning from World War II and then on to achieving one of the highest academic records ever, and ends up dedicating his life to protecting the civil rights of all Americans. At a time when we are discussing what is happening regarding the lack of civil rights in the country of his forbears—what a marked contrast.

I am concerned when I hear some Members trying to stall or defeat his nomination. They have done it by mischaracterizing Mr. Lee and his record of practical problem solving.

Yesterday, my statement pointed out that the confirmation of this son of Chinese immigrants to be the principal Federal law enforcement official responsible for protecting the civil rights of all Americans would stand in sharp contrast to the human rights practices in China.

Some are obviously trying to stall or defeat this nomination by mischaracterizing Mr. Lee and his record of practical problem solving. Bill Lee testified that he regards quotas as illegal and wrong, but some would ignore his real record of achievement and our hearing if allowed to do so. I am confident that the vast majority of the Senate and the American people will see through the partisan rhetoric and support Bill Lee.

Bill Lee has dedicated his career to wide ranging work on civil rights issues. He has represented poor children who were being denied lead screening tests, women and people of color who were denied job opportunities and promotions, neighbors in a mixed income and mixed race community who strove to save their homes, and parents seeking a good education for their children. Mr. Lee has developed a broad array of supporters over the years, including the Republican mayor of Los Angeles, former opposing counsels, and numerous others who cross race, gender and political affiliation lines.

Senator D'AMATO spoke eloquently of Mr. Lee's qualifications and background while introducing him last week. Senator WARNER wrote to the White House in support of Mr. Lee's candidacy. Senators MOYNIHAN, INOUYE, AKAKA, FEINSTEIN, and BOXER supported Mr. Lee at his confirmation hearing last week and Representatives MINK, BECCERA, MATSUI, and JACKSON-LEE all took the time to come to the hearings to show their commitment to this outstanding nominee.

To those who know him, Bill Lee is a person of integrity who is well known for resolving complex cases. He has been involved in approximately 200 cases in his 23 years of law practice, and he has settled all but 6 of them. Clearly, this is strong evidence that Mr. Lee is a problem solver and practical in his approach to the law. No one who has taken the time to thoroughly review his record could call him an idealogue.

Further evidence that Mr. Lee is the man for the job is contained in the editorials from some of our country's leading newspapers, including the Los Angeles Times, Boston Globe, Washington Post, and New York Times. I ask unanimous consent to have printed in the RECORD copies of those editorials and articles at the conclusion of my statement, and I also ask to be printed in the RECORD at the conclusion of my statement, a letter from the assistant city attorney from Los Angeles that corrects a misimpression that may have been created by a letter recently sent by NEWT GINGRICH.

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

(See exhibit 1.)

As Robert Cramer's letter establishes, Mr. Lee neither sought to impose racial or gender quota nor employed dubious means in a case in which he, in fact, was not even active as counsel. Mr. Cramer, a 17-year veteran attorney for the city of Los Angeles, concludes:

Bill Lann Lee and I have sat on opposite sides of the negotiating table over the course of several years. Although we have disagreed profoundly on many issues, I have throughout the time I have known him respected

Bill's candor, his thorough preparation, his sense of ethical behavior, and his ability to bring persons holding diverse views into agreement. He would, in my view, be an outstanding public servant and a worthy addition to the Department of Justice.

When confirmed, Bill Lee will be the first Asian-American to hold such a senior position at the Department of Justice. I am sure that any fairminded review will yield the inescapable conclusion that no finer nominee could be found for this important post and that Bill Lee ought to be confirmed without delay. I look forward to the Judiciary Committee voting on this nomination next week and am hopeful that Mr. Lee will be confirmed before the Senate adjourns.

EXHIBIT 1

[From the Los Angeles Times, Oct. 20, 1997]

FINE CHOICE FOR U.S. RIGHTS POST—L.A. ATTORNEY SHOULD BE CONFIRMED BY THE SENATE WITHOUT DELAY

Los Angeles civil rights attorney Bill Lann Lee is a smart, pragmatic consensus builder who has proven himself in fighting discrimination based on race, national origin, gender, age or disability. He has the expertise, the experience and the temperament to head the Justice Department's civil rights division. This nomination should be a slam dunk for the Senate. Instead it has become a partisan referendum on President Clinton's continued support for some form of affirmative action.

If confirmed, Lee, the western regional counsel of the NAACP Legal Defense Fund, would become the first Asian American to manage the 250-lawyer division. He would be well positioned to broaden civil rights enforcement to accommodate the nation's multicultural dynamics.

Some Republicans are seizing on Lee's opposition to Proposition 209, the anti-affirmative action ballot measure approved last November by California voters. But what else might be expected from a veteran civil rights lawyer? And during his confirmation hearing he promised to abide by the law of the land, which awaits a Supreme Court ruling on the constitutionality of Proposition 209.

Nominees to the federal civil rights post do often run into political trouble. During the Reagan administration, a Democratic majority blocked the promotion of Bradford Reynolds, who opposed busing and other traditional civil rights remedies. A Bush nominee, William Lucas, was blocked on similar grounds. Clinton's first choice, Lani Guinier, hit a wall of GOP rejection. Later, Deval Patrick was confirmed; he resigned in January.

Conservatives should love Lee. The son of poor Chinese immigrants who owned a hand laundry in Harlem, Lee made it on merit. He graduated with high honors from Yale and Columbia University Law School and could have enriched himself in private practice. Instead, he has spent 23 years in civil rights law.

Even legal adversaries admire him. Mayor Richard Riordan, a Republican, was on the other side when the NAACP Legal Defense Fund accused the MTA of providing inferior service to poor, inner-city bus riders. Lee built a strong case, then negotiated a settlement that saved the city substantial legal fees while still achieving more equitable transportation in Southern California. Riordan praised Lee for ''practical leadership and expertise'' that eschewed divisive politics.

Bill Lee is well qualified to become assistant attorney general for civil rights and his nomination should be approved now.

[From the Boston Globe, Aug. 27, 1997]

JUSTICE FOR BILL LANN LEE

Bill Lann Lee is being unjustly booed. President Clinton wants Lee to be the next assistant attorney general in charge of the Justice Department's civil rights division, but critics are branding Lee an extremist.

Such name-calling is a waste. Lee, a 48-year-old Asian-American, isn't a subversive. He's western regional counsel for the NAACP Legal Defense and Educational Fund. But that worries Clint Bolick. The director of litigation at the Institute for Justice, a conservative Washington public interest law firm, Bolick argues that Lee's organization doesn't reflect mainstream thinking on civil rights. And Senator Orrin Hatch has said he'll search to see whether Lee favors quotas.

The NAACP Legal Defense Fund isn't a fringe group. It's the organization that brought America Brown v. Board of Education, the 1954 Supreme Court ruling that outlawed segregation in the public schools.

As for Lee, even past legal opponents call him a pragmatic problem-solver. One example is a 1994 federal civil rights class-action suit against the Los Angeles County Metropolitan Transportation Authority. The suit charged that resources were unfairly distributed: The suburbs were overserved; the inner city was underserved. Lee focused on solving the transportation problem instead of punishing the transportation system. The resulting settlement will be worth an estimated $1 billion over 10 years to Los Angeles bus riders.

Lee's career is a crucial reminder that the country can't let the word ''quota'' scare it away from addressing racial injustice. He is part of the Legal Defense Fund's tradition of tackling important but unpopular issues, including environmental racism, police brutality, and housing. And ultimately, it isn't lawyers who create change, explains Theodore Shaw, associate director and counsel for the Defense Fund: they only create a window of opportunity in which change can happen—if communities follow through. As the Senate scrutinizes Lee, it ought to see the merits of his record, one of asking everyone—plaintiffs and defendants alike—to remedy injustice.

[From the Washington Post, Oct. 24, 1997]

THE LEE NOMINATION

In July, the president nominated Bill Lann Lee, western regional counsel for the NAACP Legal Defense and Educational Fund, to be assistant attorney general for civil rights. The post had then been vacant for half a year. On Wednesday, Mr. Lee had his confirmation hearing. The nomination now should be approved.

The choice of Mr. Lee has drawn some limited opposition, as civil rights nominations by either party almost always seem to do these days. In this case, however, even opponents, some of them, have acknowledged that, from a professional standpoint, Mr. Lee is qualified. The issue is not his professional competence. The objection is rather to the views of civil rights that he shares with the president, and which, in the view of the critics, should disqualify him.

Mr. Lee's views appear to us to be well inside the bounds of accepted jurisprudence. He is an advocate of affirmative action, as you would expect of someone who has spent his entire professional career—23 years—as a civil rights litigator. The president has likewise generally been a defender of such policies against strong political pressures to the contrary. But Mr. Lee himself observed that the assistant attorney general takes an oath to uphold the law as set forth by the courts, and so he would. The range of discretion in a job such as this is almost always less than the surrounding rhetoric suggests.

Mr. Lee over his career has brought a considerable number of lawsuits in behalf of groups claiming they were discriminated against, and has sought and won resolutions aimed at making the groups whole, somehow defined. It is that kind of group resolution of such disputes that some people object to, on grounds that the whole object of the exercise should be to avoid labeling and treating people as members of racial and other such groups. There is surely some reason for the discomfort this group categorizing generates. But the courts themselves continue to uphold such actions in limited circumstances. And Mr. Lee has won a reputation for resolving such cases sensibly. Los Angeles's Republican Mayor Richard Riordan is one who supports the nomination. ''Mr. Lee first became known to me as opposing counsel in an important civil rights case concerning poor bus riders in Los Angeles,'' he has written. ''The work of my opponents rarely evokes my praises, but the negotiations could not have concluded successfully without Mr. Lee's practical leadership and expertise. . . . Mr. Lee has practiced mainstream civil rights law.''

There are lots of legitimate issues to be argued about in connection with civil rights law. Mr. Lee's nomination is not the right vehicle for resolving them. Senators, including some who no doubt disagree with some of his views, complain with cause about the continuing vacancies in high places at the Justice Department. This is one they should fill before they go home.

[From the New York Times, Oct. 29, 1997]

A CHIEF FOR CIVIL RIGHTS

The important post of Assistant Attorney General for Civil Rights has been vacant for nearly a year, sending the wrong message about the nation's commitment to enforce anti-discrimination laws. President Clinton deserves much of the blame. After the last rights chief resigned, he waited seven months before nominating Bill Lann Lee in July. But the Senate, too, has been slow to move.

Mr. Lee, currently the Western Regional Counsel for the NAACP Legal Defense and Educational Fund Inc., is a respected civil rights attorney whose efforts to reach practical solutions and build coalitions across racial and ethnic lines have earned praise even from his legal adversaries. He will bring a constructive and conciliatory voice to the national dialogue on race and affirmative action.

The opposition to Mr. Lee arises largely from resentment among various senators over the Administration's support for some affirmative action programs. There have also been attempts to portray Mr. Lee and the venerable civil rights organization for which he works as out of the civil rights ''mainstream.'' This is a gross misrepresentation.

Mr. Lee was enthusiastically introduced to the Senate Judiciary Committee last week by New York's Republican Senator, Alfonse D'Amato. With the Senate poised to adjourn in early November, the committee should move quickly to approve Mr. Lee when it meets tomorrow. A delay is likely to kill his confirmation chances until next year.

OFFICE OF THE CITY ATTORNEY,
Los Angeles, CA, October 29, 1997.

Hon. TRENT LOTT,
Senate Majority Leader, S–230, The Capitol, Washington, DC.

Re. Bill Lann Lee Confirmation.

DEAR MR. MAJORITY LEADER: As an Assistant City Attorney for the City of Los Angeles—and opposing counsel to Bill Lann Lee

in recent federal civil rights litigation—I read with concern the October 27 letter to you from the Speaker of the House of Representatives. I believe the Speaker has been misinformed about many of the facts set out in that letter, and therefore the conclusions he reaches about Mr. Lee's fitness for public office, and in particular for the position of Assistant Attorney General for Civil Rights, are unwarranted.

The Speaker's letter begins by asserting that Mr. Lee ''attempted to force through a consent decree mandating racial and gender preferences in the Los Angeles Police Department.'' This assertion is erroneous. In the course of representing the City of Los Angeles, I have for the past seventeen years monitored the City's compliance with consent decrees affecting the hiring, promotion, advancement, and assignment of sworn police officers. I have negotiated on the City's behalf two of those decrees. Of those two, Mr. Lee was opposing counsel on the first, and was associated with opposing counsel on the second. None of these decrees mandates the use of racial or gender preferences. In fact, each of them contains provisions forbidding the use of such preferences.

For the same reasons, the Speaker's statement that the use of racial and gender preferences ''would have been a back-door thwarting of the will of the people of California with regard to Proposition 209 (the California Civil Rights Initiative)'' is inapposite. Because the decrees with which Mr. Lee was associated do not call for racial or gender preferences, and in fact forbid them, these decrees do not violate the requirements or the intent of Proposition 209.

Of particular concern to me is the Speaker's reference to ''the allegation that Mr. Lee apparently employed dubious means to try to circumscribe the will of the judge in the case.'' This allegation is wholly untrue. The case being referred to is presently in litigation in the district court. Mr. Lee was not at any time a named counsel in the case, but was associated with opposing counsel because of his involvement in the negotiation of a related consent decree. Neither Mr. Lee nor any opposing counsel attempted in any fashion to thwart the will of the judge supervising the litigation. The matter had been referred by the court to a magistrate judge appointed by the court to assist in the resolution of the case. Each counsel had advised the district judge at all points about the progress of the matter. Upon reconsideration, the district judge elected to assert direct control over the litigation. Nothing in Mr. Lee's conduct reflected any violation of the court's rules, either in fact or by appearance.

Bill Lann Lee and I have sat on opposite sides of the negotiating table over the course of several years. Although we have disagreed profoundly on many issues, I have throughout the time I have known him respected Bill's candor, his thorough preparation, his sense of ethical behavior, and his ability to bring persons holding diverse views into agreement. He would, in my view, be an outstanding public servant and a worthy addition to the Department of Justice.

Very truly yours,

ROBERT CRAMER,
Assistant City Attorney.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ANALYSIS OF DOMENICI-CHAFEE ''DEAR COLLEAGUE'' LETTER REGARDING ISTEA REAUTHORIZATION

Mr. BYRD. Mr. President, earlier this week, Senators received a ''Dear Colleague'' letter and accompanying material from my friends and colleagues, Senators CHAFEE and DOMENICI. This letter included several representations regarding the substance and effect of the Byrd-Gramm-Baucus-Warner amendment in comparison to that of the Chafee-Domenici amendment to S. 1173, the ISTEA reauthorization bill.

I have already addressed a number of these issues on the floor over the last two days. However, I thought it would be valuable for Senators to review a memorandum that evaluates in detail the representations made by Senators CHAFEE and DOMENICI in their ''Dear Colleague'' letter. This analysis was prepared by Dr. William Buechner, Director of Economics and Research at the American Road and Transportation Builders Association.

I therefore ask unanimous consent that Dr. Buechner's analysis be printed in the RECORD at this point, and I hope all Members will carefully review this material and become cosponsors of the Byrd-Gramm-Baucus-Warner amendment.

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

Memorandum

To: Senate Transportation & Budget LA's
From: Dr. William Buechner, Director of Economics & Research American Road & Transportation Builders Association
Date: October 29, 1997
Re: Dear Colleague by Senators Domenici and Chafee on Byrd-Gramm-Baucus-Warner Amendment to S. 1173 (ISTERA II)

Yesterday, you received a dear colleague letter from Senators Domenici and Chafee claiming that forty-three states would lose highway money under the Byrd-Gramm-Baucus-Warner Amendment to S. 1173. This claim was made on the basis of tables and charts prepared by the U.S. Department of Transportation under instructions from the Environment and Public Works Committee. A front page article on this memorandum appeared in the October 28 edition of Congress Daily A.M., which gives the Domenici-Chafee analysis the illusion of accuracy and authority.

DON'T BE MISLED

The purpose of the Domenici-Chafee dear colleague letter is to obscure the fact that the Byrd-Gramm-Baucus-Warner amendment will provide $28 billion more for highways during the next five years than ISTEA II as reported, while the proposed Domenici-Chafee amendment will not. Nonetheless, the letter suggests that it is appropriate to compare the two proposals as though both provide the same amount of funding. This creates the impression that some states would receive less under Byrd-Gramm-Baucus-Warner than under Domenici-Chafee. Here are the facts:

The Byrd-Gramm-Baucus-Warner amendment authorizes an increase in formula funding for highway programs of about $28 billion over the five-year period FY 1999–2003, to be distributed among the states based on the precise distribution formula in the committee bill. Since the program authorization levels in ISTEA II will put an upper limit on the amount Congress can spend on highway during the next six years, the only way to increase highway spending is to increase the amounts authorized in ISTEA II, which is precisely what the Byrd-Gramm-Baucus-Warner amendment does. The implication of the Domenici-Chafee dear colleague letter that the Byrd-Gramm-Baucus-Warner amendment provides no more funding than ISTEA II as reported is simply wrong and completely misrepresents the intent of the amendment.

The Domenici-Chafee approach would lock the highway program into the inadequate authorization levels currently specified in ISTEA II in exchange for a procedure by which Congress could add more money at some future time if it so wishes. This pig-in-a-poke asks the American people to give up the higher authorizations for highways provided in Byrd-Gramm-Baucus-Warner for the hope that Congress might deliver the equivalent at some future date. Of course, Congress will still have to pass higher obligation limitations and appropriations under either approach, but the Byrd-Gramm-Baucus-Warner amendment lets us lock in the necessary authorization level today.

The Byrd-Gramm-Baucus-Warner amendment also authorizes additional spending for the Appalachian Highway Development System and changes most of the funding for the Border Corridor program from a general fund authorization into contract authority. The Environment and Public Works Committee-directed table assumes that funds for these initiatives would be paid ''off the top'' and implies that states would have to give up money from other highway programs no matter what level is appropriated for the highway program. In fact, the authorization for these programs in the Byrd-Gramm-Baucus-Warner amendment are fully subject to any annual obligation limitation as are other highway programs. Moreover, these programs would be funded in the same proportion as other programs in the bill.

In truth, the Byrd-Gramm-Baucus-Warner amendment provides an increase in authorization for all of the highway programs in ISTEA II in the same proportion as provided for in the underlying bill. As the annual level of appropriations rise, the funds available for all states will rise with it. You cannot compare the state-by-state allocations under Byrd-Gramm-Baucus-Warner versus Domenici-Chafee at the same level of spending, as the dear colleague letter attempts, because the two do not provide the same level of spending. Instead, the appropriate comparison would pit the fully-funded Byrd-Gramm-Baucus-Warner against the anemic level of funding under Domenici-Chafee, in which case every state wins and wins big under the Byrd-Gramm-Baucus-Warner amendment. The Byrd-Gramm-Baucus-Warner amendment will make it possible to use the revenues from the recent transfer of the 4.3 cents per gallon of the Federal gasoline tax previously used for deficit reduction into the Highway Trust Fund to provide authorization for more than $5 billion per year in new funds to allocate among all the states for highway investment.

In truth, every state stands to receive substantially more under the Byrd-Gramm-Baucus-Warner amendment than under ISTEA II as reported. These additional funds are critical to meet our nation's transportation needs.

I would be happy to discuss this with you if you have questions. I can be reached at 202–289–4434.

ADDITIONAL COSPONSOR—S. 1173

Mr. BYRD. Mr. President, I ask unanimous consent that the name of Mr. DASCHLE be added as a cosponsor to amendment No. 1397, the Byrd-Gramm-Baucus-Warner amendment to S. 1173, the ISTEA reauthorization bill.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EMERGENCY STUDENT LOAN CONSOLIDATION ACT OF 1997

Mr. JEFFORDS. Mr. President, I want to bring to the attention of my colleagues an important matter, which I hope can receive consideration before we leave this fall.

Last week, the Senate Committee on Labor and Human Resources unanimously reported out a bill, S. 1294, the Emergency Student Loan Consolidation Act of 1997. This measure is a modest, but extremely important, effort designed to assist students attempting to finance their higher education.

The measure enjoys broad bipartisan support. The House companion bill, H.R. 2335, was approved by a vote of 43 to 0 by the House Committee on Education and the Workforce. This measure, with language identical to S. 1294, as reported by the Labor Committee, was subsequently approved by the full House under suspension by voice vote. It has also been endorsed by national associations representing students and institutions of higher education.

I ask unanimous consent that a letter from Dr. Stanley O. Ikenberry, president of the American Council on Education, be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. JEFFORDS. Mr. President, the House measure is now being held at the desk and is available for immediate action by the Senate. It has been cleared on the Republican side of the aisle. Unfortunately, due to objections from the other side of the aisle, we are unable to consider it.

I want to take this opportunity to discuss the provisions of this legislation and the need to move expeditiously on it. This legislation does two things:

First, it permits individuals to consolidate all their student loans—both Federal Direct Loan Program [FDLP] loans and Federal Family Education Loan Program [FFELP] loans—into a FFELP consolidation loan. Under current law, students who have both direct and guaranteed loans may only consolidate them into an FDLP consolidation loan administered by the Department of Education.

The problem is that FDLP consolidation is not an option right now. Since August 26, the Department has suspended its consolidation program in an effort to deal with the backlog of 84,000 applications which had piled up prior to that time.

Second, it assures that students and their parents will enjoy the full benefits of the educational tax credits contained within the Taxpayer Relief Act of 1997 by excluding these tax credits from consideration when student financial need is being assessed.

Let me talk for a moment about why it is important to offer a loan consolidation option to those students who, right now, have nowhere to turn. The student loan consolidation program allows students to consolidate multiple student loans into a single loan that has several repayment options. The benefits of consolidation include the convenience of making a single monthly loan payment. In addition, the repayment options can reduce monthly payments. For many young families, these loans reduce their monthly payments enough to allow them to qualify for a mortgage for their first home.

In my view, we need to make every possible effort to assure that consolidation is a benefit to students—not just another obstacle course. A New York Times article about the series of problems which has plagued the FDLP consolidation program operated by the Department of Education under contract with Electronic Data Systems Corp. brings to life the individuals whom this legislation is trying to help.

Consider the following account regarding Shannan Elmore:

> It seemed like a simple enough thing to do: consolidate 10 different Government-sponsored college loans due over 10 years into one jumbo loan payable over 25, slashing the monthly payment to $350 from $448. That was one of the last things standing between Shannan Elmore and mortgage approval for the house—the one whose concrete foundation her husband had proposed in front of—that she wanted to build near Boulder, CO. But Mrs. Elmore, a 30-year-old chemist who graduated in May 1996 with a master's degree and $43,000 of debt, said it took eight months for the Electronic Data Systems Corporation to do the paperwork—far too long to satisfy the mortgage lender. During those months, Mrs. Elmore said, she called frequently only to be put on hold—for as long as 45 minutes—and received one promissory note missing the very page her lender needed to see. She said she was still trying to clear up a loan that E.D.S. thinks it paid off twice and for which it is double-billing her. The Elmores eventually qualified for a mortgage, but for a different house.

Mr. President, I ask unanimous consent that the full text of the article, which appeared in the New York Times on October 1, 1997, appear in the RECORD following my remarks.

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

(See exhibit 2.)

Mr. JEFFORDS. Mr. President, Department of Education officials have been working diligently to resolve the problems with the consolidation program and have indicated that it will reopen by December 1. I believe we would all welcome seeing the program back on its feet. In the meantime, we need to give students another option right now.

We also need to help alleviate the pressure on the direct consolidation loan program which will inevitably occur when it reopens—only to face the pent-up demand built up over a 3-month period. Prior to the shutdown, applications were running approximately 12,000 per month.

This legislation is intended to provide immediate relief to students and is designed specifically for that purpose. It modifies the current FFELP consolidation program to assure that loan subsidies are maintained, to provide for the same interest rate in effect for FDLP consolidation loans, and to protect borrowers against discrimination.

The bill does not, nor is it intended to, address every issue which has been raised with respect to the loan consolidation provisions of the Higher Education Act. In anticipation that these issues would be fully debated and addressed in next year's reauthorization of the act, the consolidation provisions of this legislation will expire on October 1, 1998.

Finally, this legislation also includes important provisions dealing with the calculation of student aid under the Higher Education Act.

The Taxpayer Relief Act of 1997 contained two educational tax credits designed to help students and their families pay for the rising cost of higher education. Under current law, the need analysis formula will consider students and their parents who receive the tax credit as having greater resources to pay for college, thereby reducing their eligibility for student financial aid. As a result, students and their families will find their financial aid reduced and that the amount they expended for higher education remained relatively unchanged by the educational tax credits.

If the change in the need analysis formula included in this legislation is not made, approximately 69,000 individuals will lose an estimated $120 million in student financial aid.

I do not believe that this needed relief for students should be further delayed, and I urge my colleagues to withdraw their objections so we can get this measure to the President.

Mr. President, I want to just please urge those who are opposing the consideration of this bill to at least take the time to fully understand the ramifications of their failure to allow this bill to come up. I am sure that when they do so, they will recognize that this is not something which should be left undone before we leave here this fall.

EXHIBIT 1

AMERICAN COUNCIL ON EDUCATION,
OFFICE OF THE PRESIDENT,
Washington, DC, October 28, 1997.

DEAR SENATOR: I write on behalf of the undersigned to express our strong support for S. 1294, the ''Emergency Student Loan Consolidation Act of 1997.'' This urgent legislation contains two important provisions, each of which provides significant benefits for students.

First, the bill amends the student aid need analysis section of Title IV to exclude from parental or student income the amount of any tax credit claimed under the ''Taxpayer Relief Act of 1997.'' This is an essential conforming change that is necessary to fulfill the intent of framers of the tax bill regarding the Hope Scholarship and Lifetime tax credits.

Second, the bill provides temporary, but much-needed, relief for tens of thousands of borrowers whose access to Direct Consolidation loans has been limited due to the problems experienced by the Department of Education in implementing the Consolidation program. While we hope the Department will soon eliminate the massive backlog of applications, and that it will be able to accept and process applications soon, it is important to provide additional consolidation options for borrowers who desperately need help now. S. 1294 will provide several significant borrower benefits:

The bill allows borrowers to consolidate their student loans not only through the Direct Consolidation program, but also through the lender of their choice in the Federal Family Education Loan Program (FFELP).

It lowers the interest rate on FFEL Consolidation loans, and sets a maximum cap on interest at the same rate as is currently in effect for Direct Consolidation loans.

It equalizes the treatment of certain interest exemption benefits for all borrowers by extending the Direct Consolidation program's treatment of these exemptions to the FFEL Consolidation program.

The bill provides adequate non-discrimination provisions that go beyond current law in FFELP in limiting lender discretion.

We respectfully request that you join us in supporting this important legislation, which provides a broad array of much-needed student benefits.

Sincerely,

STANLEY O. IKENBERRY,
President.

On behalf of the following:

American Council on Education.

American Association of Community Colleges.

American Association of State Colleges and Universities.

Association of American Universities.

National Association of Graduate and Professional Students.

National Association of Independent Colleges and Universities.

National Association of State Universities and Land-Grant Colleges.

United States Public Interest Research Group.

United States Student Association.

EXHIBIT 2

[From the New York Times, Oct. 1, 1997]

DROPPING THE BALL IN JUGGLING LOANS; A LOT OF FUMBLES BY E.D.S. IN PROCESSING STUDENT DEBT

(By Carol Marie Cropper)

DALLAS, SEPT. 30.—It seemed like a simple enough thing to do: consolidate 10 different Government-sponsored college loans due over 10 years into one jumbo loan payable over 25, slashing the monthly payment to $350 from $558. That was one of the last things standing between Shannan Elmore and mortgage approval for the house—the one whose concrete foundation her husband had proposed in front of—that she wanted to build near Boulder, Colo.

But Mrs. Elmore, a 30-year-old chemist who graduated in May 1996 with a master's degree and $43,000 of debt, said it took eight months for the Electronic Data Systems Corporation to do the paperwork—far too long to satisfy the mortgage lender.

During those months, Mrs. Elmore said, she called frequently only to be put on hold—for as long as 45 minutes—and received one promissory note missing the very page her lender needed to see. She said she was still trying to clear up a loan that E.D.S thinks it paid off twice and for which it is double-billing her. The Elmores eventually qualified for a mortgage, but for a different house.

Mrs. Elmore is one of tens of thousands of recent graduates who have endured months of red tape as E.D.S. has struggled during the last year to fulfill its contract with the Education Department to run the Government's four-year-old effort to gain control of the nation's student loans. The delays have resulted in a Congressional hearing, prompted calls for legislation and given a black eye to both the Education Department and to E.D.S., the giant computer services company that is based in the Dallas suburb of Plano.

At the hearing, held Sept. 18, Marshall Smith, Acting Deputy Secretary of the department, testified that it had taken E.D.S. almost five months, on average, to complete each loan consolidation, creating a backlog of 84,000 applications. To give E.D.S. time to catch up, the department ordered it to stop accepting new consolidation requests in August.

This very public stumbling has put expansion of the Government's so-called direct student loan program in jeopardy. Republicans who opposed the Clinton Administration's 1993 effort to move student loans away from banks and into the hands of the Education Department are back in force.

''What we said in '93 has come home to roost,'' said Representative Howard P. McKeon of California, chairman of the subcommittee of the Committee on Education and the Work Force that held the recent hearing. Critics of the program said that it was doomed to create inefficiencies and bottlenecks.

Under the direct-loan program, student loans are issued by the Government, instead of by banks or other private lenders. The program is supposed to simplify life for students, who often have to borrow from more than one bank and then keep track of loans that are sold to lenders in other parts of the country.

The program is also supposed to trim Government administrative and interest expenses paid to lenders in the separate student loan operation in which repayment is simply guaranteed by Washington. And it provides students with more lenient repayment methods—allowing them to pay based on their income. The direct program has proved popular with students: it now represents about $20 billion in outstanding loans, about 16 percent of the total student debt, and is being used by 36 percent of all students borrowing for college expenses. E.D.S. issues the direct loans and oversees their consolidation.

To help ease the consolidation logjam—and, not incidentally, slow the direct program's forward motion—critics of Government lending have scheduled a committee vote Wednesday on a measure that would allow students to consolidate loans through a bank even if one or more of the loans had been issued by the Government. That option is not currently available to them. If the measure is approved, it would go to the full House for consideration.

Both E.D.S. and the Education Department say the logjam results from an unexpectedly large influx of consolidation applications and from a surprising amount of complexity in the process. E.D.S. said it had based its winning bid for the contract on department specifications that had forecast much less work. The department said it expected 7,000 to 8,000 applications each month; the actual rate was 12,000 a month.

But analysts that follow E.D.S., along with an executive of the Maryland company that previously held the contract, suggest another explanation—that an E.D.S. eager to win business may have underbid the job in 1995 by underestimating how many workers would be needed. E.D.S. has had to add 77 customer service representatives to the 100 it originally assigned to the contract, and last year it replaced the managers running the project.

Education Department officials acknowledge that they do not have the expertise to guide such a complicated computer effort. ''A lot of the problems we run into with government is we don't block and tackle correctly,'' Thomas Bloom, inspector general for the department, testified at the Sept. 18 hearing. The General Accounting Office, the Congressional watchdog, has repeatedly questioned the department's technical ability to handle financial aid information.

George Newstrom, an E.D.S. corporate vice president for government contracts, said the company did not improperly underbid. ''We don't do that,'' he said E.D.S. would have had enough employees to do the work if the Government's estimates had been correct, he said.

But E.D.S. has acknowledged that it miscalculated on other contracts that were bid around this time. In August, E.D.S. said that it had re-evaluated profits related to about a dozen contracts booked in 1994 and 1995, lowering the numbers. The changes cost the company $80 million in pretax income.

Investor concerns over those errors combined with disappointing quarterly earnings to drive E.D.S.'s stock from a 52-week high of $63.375 last October to $35.50 today. The company is in the middle of a revamping that will shed 8,500 of its 100,000 jobs.

E.D.S. dismissed at least one of the managers responsible for the troubled contracts, according to Myrna Vance, E.D.S.'s corporate vice president for investor relations.

Mrs. Vance said the student loan account was not on the problem list in August. It is too early to tell whether the need to assign additional service representatives will mean lower profits there, she said.

The company's February 1995 bid to the Education Department was submitted at a time when, analysts say, E.D.S. was in a period of flux and managers were especially eager to win contracts.

E.D.S. was still adjusting to bruising competition from I.B.M., which had barged onto its turf in 1991 with aggressive bids for contracts that had long gone to the Texas company. Also, top E.D.S. management was distracted by the company's planned 1996 spinoff from the General Motors Corporation, which had bought the company from its founder, Ross Perot, in 1984. The spinoff would remove E.D.S. from G.M.'s protective wing, leaving it to stand or fall on its own.

E.D.S., long the industry leader in handling computer services for big clients, finished 1995 with $12.4 billion in revenue, up from $10 billion the year before. But according to a Merrill Lynch analyst, Stephen T. McClellan, the company was finding it increasingly difficult to keep up the double-

digit earnings growth it had come to regard as its due. Worse, I.B.M. was gaining on E.D.S. for total contracts won and would roar past in 1996.

It was in this atmosphere that E.D.S. prepared its $162 million bid to issue and consolidate direct loans over a five-year period. The bid was at least 50 percent lower than the one submitted by the Maryland company that had been doing the job, the CDSI/Business Applications Solutions unit of Computer Data Systems Inc. E.D.S. soon won a second five-year contract, worth $378 million, to service the loans.

Thomas A. Green, president of the CDSI unit, said that his company had already started to see a surge in interest in the direct-loan program—and the Education Department should have know that. ''We were sending out applications all the time, so it was clear that the popularity of the program was growing,'' Mr. Green said. ''They weren't blind-sided at what it was going to be when they took over,'' he said of E.D.S.

Mr. Green also said his company was never as backlogged as E.D.S. has been. He said CDSI consolidated 144,000 loans in the 22 months between January 1995 and November 1996, when it finished its work. The average consolidation took 65 to 70 days, he added.

That compares with an average of 142 for E.D.S., according to Mr. Smith, the Education Department official. E.D.S. has processed about 54,000 loans since taking over last September, he told the House panel.

One of those affected by the delays is Robyn Higbee, who says she went back and forth on the phone for six months to consolidate two of her husband's law school loans totaling $18,500. Mrs. Higbee struggled with this as the family moved from Virginia to California, her husband studied for the bar exam and started a new job, the couple bought their first home and she gave birth to a baby who required heart surgery.

''It was just something that was totally unnecessary,'' Mrs. Hibgee, 25, said of the loan complications.

Randolph Dove, a spokesman for the company in its Washington-area office, while not familiar with the details of Mrs. Higbee's and Mrs. Elmore's cases, said that E.D.S. regretted the difficulties any students have had. ''We've been working very hard and have a lot of people dedicated to resolving this,'' he said.

Over all, E.D.S. has recovered from its dry spell in winning contracts. I.B.M. won $27 billion in new business last year, compared with E.D.S.'s $8.4 billion, according to Greg Gould, a computer services analyst at Goldman, Sachs, but this year E.D.S. has already won or is close to signing $16.4 billion worth of contracts. Also, gross margins are up for the work E.D.S. managers are bringing in—25 percent rather than the 16 percent on contracts in 1994 and 1995, Mr. Gould said. And top management has increased its control of underlings who may have been tempted to bid too low to win a contract, he added. ''There's that winner's curse,'' he said. ''You want to win and you just lower your price until you win the contract.''

The prognosis for direct student loans is murkier. E.D.S. expects to have the kinks out of its system and its backlog erased by Dec. 1, Mr. Dove said. Students can then start applying once more for consolidations, he said.

But the concern over the logjam is undercutting the Government's plans to expand the program. Representative McKeon, who introduced the legislation now before the education committee, concedes that there are not enough opponents of direct loans to kill the program outright. But his bill would at least end the Government's monopoly over consolidation that restricts all students who have any direct loans.

For E.D.S.'s part, Mrs. Vance said that the publicity would not have much impact on the company's prospects. ''One contract is not going to set a trend or be a deterrent for new business,'' she said.

The Education Department, however, is considering whether to cancel the $378 million contract with E.D.S. for servicing the loans. Such a move could come because applications for new loans are, oddly enough, now running below expectations. A cancellation would not be related to the problems with the consolidations, a department spokesman said, adding that another company's servicing contract is also in jeopardy.

But even some of the lawmakers who mostly blame the Education Department for the program's troubles are asking whether E.D.S. should be punished by being docked part of its pay. Representative Peter Hoekstra, Republican of Michigan, said he might favor doing that.

Even without that penalty, however, E.D.S. will feel some pain, Mr. Hoekstra said, adding, ''I wouldn't want to be identified as the vendor that forced the Federal Government to shut down consolidations in the direct-loan program with a backlog of 84,000 kids.''

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ADDITIONAL COSPONSORS—S. 1319

Mr. BYRD. Mr. President, I ask unanimous consent that the name of Mr. LEVIN, Mr. JEFFORDS, and Mr. LEAHY be added as cosponsors to S. 1319, a bill to repeal the Line-Item Veto Act.

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

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

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

MORNING BUSINESS

Mr. JEFFORDS. Mr. President, in behalf of the 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 until 3 p.m..

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRYAN. 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. BRYAN. Mr. President, I ask unanimous consent to speak as if in morning business with the understanding that if the distinguished floor leader is prepared to move forward, I am prepared to yield the floor back to him for purposes of conducting his business.

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

Mr. BRYAN. I thank the Chair again.

NUCLEAR WASTE POLICY ACT OF 1997

Mr. BRYAN. Mr. President, yesterday, in perhaps the most antienvironmental vote of the Congress, the House of Representatives passed the Nuclear Waste Policy Act of 1997. Like the Senate bill that passed earlier this year, the House bill unfairly targets Nevada, a State with no nuclear reactors, as the final destination for 80,000 metric tons of high-level nuclear waste produced by the U.S. commercial nuclear utilities, most of which are located in the East.

The central feature of the bill passed by the House yesterday, like the Senate bill, is the establishment of so-called interim storage of high-level commercial nuclear waste at the Nevada test site, about 80 miles north of the metropolitan Las Vegas area, an area that comprises some 1 million citizens.

Like its Senate counterpart, the House bill tramples on decades of environmental policy, ignores public health and safety and exposes the American taxpayer to billions of dollars in cost to solve the private industry's waste problem.

Fortunately, the President has indicated that he will veto either version of this misguided legislation. We have secured the votes in the Senate to sustain President Clinton's veto.

While yesterday's House vote falls slightly short of the number required to sustain a veto in the House, we are still within striking distance of the required number, and I believe that in the end this bill has little or no chance of becoming law.

As I have discussed many times here on the Senate floor, the nuclear power industry's legislation is nothing but corporate pork, plain and simple. It is a bailout for a dying industry at the expense of both the pocketbooks and the health and safety of the American public.

Nevada, as the industry's chosen destination for its waste, has obvious objections to this legislation. But, Mr. President, other regions are also rightfully concerned with the potential impact on their citizens. Under this legislation, in just a few short years, 16,000 shipments of toxic, high-level nuclear waste will be transported by rail and highway through 43 States. More than 50 million Americans live within 1 mile of the proposed rail and truck routes.

The bill requires the transportation of waste through many of our largest

metropolitan centers and provides no assurance that funds will be available to provide training and equipment for emergency responders.

Moreover, the bill makes a mockery of our Nation's environmental protection laws. It ignores the National Environmental Protection Act and would take precedence over nearly every local, State or Federal environmental statute or ordnance, including, among others, the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, and many more. It establishes radiation protection standards far lower than in any other Federal program and in complete contradiction to internationally accepted thresholds.

The bill provides little or no public input or comment by affected communities or individuals and establishes a whole new set of unreachable deadlines, repeating the very mistakes Congress made in 1982 with the original Nuclear Waste Policy Act.

All of this—the trampling of our environmental laws, the billions of dollars in subsidy to the nuclear power industry, and the grave threat to the health and safety of millions of Americans—is completely unnecessary. Nuclear utilities can and do store waste safely on site at reactors. In fact, the very same storage technology that the legislation contemplates using at the Nevada test site is currently used at reactor sites around the country, with many more sites soon to follow. No reactor in the United States has ever closed for lack of storage.

Despite the scare tactics of the nuclear power industry, there is no storage crisis. Objective scientific experts agree that there is no storage crisis. The Nuclear Waste Technical Review Board, an independent oversight board created by the Congress, found in March of 1996, and repeated again this year, that there is no compelling technical or safety reason to move spent fuel to a centralized interim facility for the next few years. Nevertheless, the nuclear power industry has been relentless in its efforts to move its waste to Nevada as soon as humanly possible, no matter what the consequences.

Mr. President, we will continue to do whatever we can to stop this legislation from passing. With a firm veto threat in place and without the votes to override the veto, I encourage the leadership of both the Senate and the House of Representatives to stop this exercise in futility. Stop wasting Congress' time on ill-founded legislation that stands little or no chance of being enacted.

The American people deserve more from us than wasting our time on billion-dollar subsidies for an industry that has spent too long already at the public trough.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CAMPAIGN FINANCE REFORM

Mr. BUMPERS. Mr. President, I came over to speak on a beautiful, lazy Friday afternoon—that is one of the times you can get the floor without having to sit around too long—and talk about three or four items that I have just been reflecting on—nothing heavy.

But to take up campaign finance reform first, that issue has had the Senate tied in knots, now, for about 6 weeks, so tied in knots that we are not going to be able to finish the work that we ought to finish, particularly on the highway transportation bill, and that is a real tragedy. Nevertheless, I have felt very strongly about this issue for a long time, so strongly that earlier this year I introduced my own bill to provide for public financing of campaigns.

I think I could probably say without fear of contradiction—and at my age I am not likely to live long enough to see this country go to public financing—and yet in my opinion that is the only solution: If you take all private money out of financing of campaigns in this country then you know that any private money in a campaign is a violation.

Senator THOMPSON has just announced—essentially announced—the shutting down of the hearings on campaign finance reform. Nobody's fault—I thought Senator THOMPSON did a credible job. I thought all the members of the committee did. But there really was not very much there, except occasional abuses, cases of neglect, inattention, and heavy partisanship, but very little in a way that could remotely be construed as illegal. Yet, for all the abuses—and there were some—uncovered and testified to and about during those hearings, there is not any strong sentiment here to change the system under which those abuses occurred. If we do nothing this year, we do nothing next year, you can rest assured the abuses will continue.

I come from the Democratic Party. Of course, when it comes to raising money, we are a threatened species. But completely aside from the politics of the issue—and the fact is that the Republicans outraise us—I think our Democratic National Committee is in debt by $15 million. I saw a big story in the paper this morning that the Democratic National Committee was going to raise $2.5 million at a retreat in Florida this weekend, and the story acted as though there was something ominous and maybe certainly unethical about it. But it didn't seem that way to me at all, not under the existing system. There is nothing wrong with people giving $50,000 a couple to attend a weekend retreat. That is a pretty steep price, but people do it every weekend in both parties. The price is just not normally that high.

But I also feel that as long as we allow that sort of thing to continue, we are effectively selling off the Government to the highest bidder. I said on the floor, and it bears repeating, you cannot expect a democracy to function as it is supposed to function when money plays the role it plays in our campaigns. So, I hope that, come next March or whenever they have agreed to, if there has been such an agreement, that we can address the McCain-Feingold bill. I am a cosponsor of the bill, but I must say it pales compared to what I think ought to be done, namely go to public financing and take private money out of it.

I saw a list in the Washington Post yesterday of all the incumbents and how much money they had in the bank and how much the challengers had. And the incumbents are all friends of mine. This is not to belittle them. They are simply taking advantage of the system as it is. But the incumbents have millions in the bank and the challengers had virtually nothing. As a country lawyer from a town of 1,200 people who jumped up from a private practice to run for Governor—which most people considered insane, trying to get me to submit to a saliva test—believe you me, I know the power of incumbency and I faced it.

In the first primary, I spent $90,000. You couldn't get on the evening news for a week for that today.

I don't want to get too preachy about it. This is something you can get preachy about. But the fact is, I see campaign finance reform now in a different way than I saw it even as recently as 2 or 3 years ago. I see it now as a real threat to this Nation. It is no longer, at least it should not be, a partisan matter. It is, and it shouldn't be, because everybody's future is at stake.

I saw in the paper this morning where one of the candidates in Virginia is going to be given $1 million by his party. I saw last week where one of the candidates for SUSAN MOLINARI's spot, I guess it is in New York, that one of the parties is dumping $800,000 into that campaign and that person's opponent had $35,000 in the bank. You don't have to be brilliant to know how those races are going to come out. Television does it all and you cannot get on television without money. That is what these massive contributions are all about.

Whoever has the most money 94 percent of the time wins. You can hardly call that a democracy because, as I say, it is threatening.

REDUCING THE DEFICIT

Mr. BUMPERS. Mr. President, there is a lot of talk now since the President has announced that the deficit this year for 1997 is, I believe, $22.6 billion. That is an incredible figure. In 1993, you are looking at a Senator who was genuinely concerned, really concerned, not just concerned, alarmed about where we were heading with these massive deficits of $290 billion a year, and

no one seeming to want to do something about it, either cut spending or raise taxes, both of which would be necessary to address the problem.

I have said on the floor before, so far as I am concerned, regardless of what President Clinton does before or from now on, his legacy is going to be the bill in 1993 that addressed that problem in a very courageous way, so courageous it cost a lot of Members on my side of the aisle their seats. But it reduced the deficit from $290 billion a year, and it is reduced to this year $22.6 billion. That is an awesome, awesome result, and one in which the people in this country ought to take great pride.

Then I hear on the House side where the Speaker said, if we have a surplus left next year, he would like to have it go on to defense spending. Completely aside from what I want to say on the subject, that is not where I want it to go. I want the so-called surplus to go right into the National Treasury, because even though the deficit this year is $22.6 billion, that does not include $114 billion that we are using in trust funds—Social Security, airport, highway trust funds—to get to that point.

So while we are all patting ourselves on the back, Senator HOLLINGS says giving ourselves the Good Government Award, for doing something about the deficit, we should not ever lose sight of the fact that the $22.6 billion is not the deficit. The deficit is $22.6 billion plus the $114 billion we are spending in trust funds by borrowing, and until we add $114 billion in surplus to the $22.6 billion in deficit, we will not have a balanced budget.

I agree with Alan Greenspan—I don't always agree with him—but I agree with him on one thing. Even using the jargon of the Senate and assuming that $22.6 billion is the deficit, that is not the honest deficit, but assuming that it is, if we have anything in excess of that next year, I would like to see it go into the Treasury, because the more we pay on the national debt, the lower interest rates are going to go, and the lower interest rates go, the better off the economy is going to be.

INTERNAL REVENUE SERVICE

Mr. BUMPERS. Mr. President, everybody has heard that old expression about fools walk in where angels fear to tread. I have heard as a practicing lawyer, as a citizen and certainly as a Member of the U.S. Senate, as many tales about the IRS as anybody in this body. There have been unbelievable abuses, a lot of which have been aired in the hearings that Chairman ROTH held in the Finance Committee.

You don't get accomplished diplomats for what we pay auditors in the IRS. Oftentimes, you get somebody who really is, indeed, abusive. Even though he is spending the taxpayer's money he is auditing, he can be very unpleasant. It isn't just the abusiveness of the auditors. Occasionally it is also their incompetence.

I was trying to help somebody one time and made a phone call back when I was practicing law. ''We can't talk to you; send us a letter authorizing us.''

I was a little offended by that, but at the same time, I understood. Anybody could call and say, ''I'm calling on behalf of'' somebody else. They don't know who they are, so I had to get an affidavit from my client and send it in saying I was authorized to represent her in a tax dispute.

But my point is all this legislation to abolish the IRS without putting anything in its place is not all that troubling to me because something has to give. You can't abolish the IRS and abolish the Tax Code without replacing it with something.

What you replace it with certainly ought not to be a flat tax. So far as I am concerned, the flat tax was created by the Flat Earth Society. A flat tax, No. 1, is not ever going to pass here because invariably it does not allow people to deduct interest on their homes. It doesn't allow charitable contributions. The church people, the universities of the country who depend so extensively on giving are not ever going to sit still for a flat tax. If the middle- and lower-income groups of the country knew what the flat tax would do to them, they wouldn't stand still for it.

I can promise you that under every flat-tax scenario I have seen, people who make between $30,000 and $100,000 are going to wind up paying more, and people who make more than that are going to wind up paying less. I have not seen one single flat-tax proposal that doesn't take all the progressivity out of the Tax Code.

I can tell you, I only have 1 more year in the Senate, but I am not going to vote during that year for anything that even smacks of a flat tax. Oh, everybody thinks it is so simple. Do you know why the Tax Code is so complex? Because of the U.S. Congress. They drafted it. We just got through adding about 800 pages to it with the so-called balanced budget bill.

Of course, it is complex. When you consider the myriad of transactions that occur in this country and you are trying to deal with all of them and there are lobbyists all over the city asking for special favors—this little thing in our business, and this little thing in our business—that is the reason the code is indecipherable today. So don't blame the IRS because the Tax Code is indecipherable, blame the U.S. Congress. We are the ones who drafted every word of it.

So, Mr. President, bear in mind that for the last year—and the IRS has many statistics on it—there is about $100 billion, somewhere between $92 and $95 billion in tax evasion every year.

What does that mean? Let's assume in the year 1997 that we collected $600 billion in personal income tax, and that is probably pretty close to correct. Assume further that the IRS had been able to collect the $100 billion which is not being paid that ought to be paid. You could reduce taxes by $100 billion. That would be pretty nice.

You hear all kinds of talk around here about tax cuts. But nobody ever wants to give the IRS any more money to enforce the Tax Code against those people who are paying no taxes. One of the reasons our taxes are as high as they are is because of the underground economy operated by people who deal in cash and do not pay taxes for the privilege of being an American citizen.

I am inclined to support—I read an op-ed piece in the Post this week strongly opposed to this idea. I do not know whether it was this week or not. But this business of shifting the burden to the IRS from the taxpayer has some merit.

I offered a bill in 1980, and it passed the Senate. It never passed the House, but it passed the Senate. The Republicans liked it so well they put it in their platform in the convention in 1980. But I had a provision that said, any time a regulator comes into your plant and charges you with a violation, you would have to sustain the burden of proving that that regulation was valid.

If somebody comes into your plant and says, ''Your fire extinguisher is 2 inches too high off the floor and, therefore, I'm fining you $100,'' it would be incumbent, under existing law, for the person who owned that plant to prove that Congress did not intend for him to pay a fine because his fire extinguisher was 2 inches too high off the ground.

Under my bill that passed the Senate in 1980, the burden would have shifted to the regulator, the guy who is trying to impose the fine. He would have to prove that the regulation is valid and within the intent of Congress. You shift the burden. But my bill excluded the Internal Revenue Code. I won't go into all the reasons we did that. It did not seem workable.

But now I am going to look very closely at this proposal of BILL ARCHER's, from the House, to shift the burden to the IRS when they allege that somebody is deficient or made a mistake on their tax return or generally state when the IRS is accusing somebody of owing money, they will have to sustain the burden of proving that instead of shifting the burden immediately to the taxpayer.

Mr. President, I had one or two other issues I was going to talk about. But in the interest of expediting this evening and allowing people in the Senate to get out of here—they all look at me with mean looks, so I know everybody is wanting to shut this place down—I will forgo a couple of other items and save them for next Friday afternoon.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. NICKLES. Mr. President, 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 MOTOR SAFETY DEMONSTRATION PROJECT

Mr. DORGAN. Mr. President, section 344 of the National Highway System Designation Act of 1995 required the Department of Transportation to implement a motor carrier regulatory relief and safety demonstration project. The purpose of this project was to determine whether certain motor carriers with exemplary safety records could operate safely with fewer regulatory burdens.

Specifically, the Department was required to establish a pilot program for operators of vehicles between 10,001 and 26,000 pounds, under which eligible drivers, vehicles, and carriers would be exempt from some of the Federal motor carrier safety regulations.

The safety data generated from this project was to serve as the basis for assessing the appropriate level of future safety regulation for the motor carrier industry.

The statute was clear. Section 344 required the Department of Transportation to ensure that participants in the project would be ''subject to a minimum of paperwork and regulatory burdens necessary to ensure compliance with the requirements of the program'' and to ''represent a broad cross section of fleet size and drivers of eligible vehicles''.

Mr. President, I would inquire of the Majority Leader, what is the status of the motor carrier regulatory relief and safety demonstration project which we mandated in 1995?

Mr. LOTT. Mr. President, I thank the Senator for raising this issue. The letter and intent of the law concerning this program are not being carried out at all.

The National Highway System Designation Act passed in 1995, and section 334 mandated the motor carrier regulatory relief and safety demonstration project. It required the Department of Transportation to implement this project no later than August, 1996. However, the Department of Transportation did not even publish Final Guidelines for the project until June 10 of this year—1 year later than required by law.

Mr. DORGAN. I am, to be honest, somewhat taken aback by the Department of Transportation's obvious delay in implementing a congressionally mandated program. And I understand that delay is not the only problem afflicting this program.

The Final Guidelines, only published this year, appear to fall far short of what was intended in section 334, both in terms of reducing paperwork and regulatory burdens and attracting a broad cross section of participating businesses. Potential business participants invested many months of effort attempting to work with the Department of Transportation to create a functional program. However, the Department's Final Guidelines still create unreasonable barriers to motor carrier participation, produce uncertainty in implementation and enforcement, and fail to reduce business paperwork.

Mr. LOTT. Mr. President, I would add that, at this time, there is not a single applicant for the motor safety demonstration project.

This has not kept the Department from heralding the project as a centerpiece of their so-called regulatory reform. For example, in the August 11, 1997 issue, of the industry publication ''Transport Topics,'' the Department's Associate Administrator for Motor Carriers, George Reagle, referred to the project as a key part of the administration's effort to ''provide common-sense government * * *.'' which offers ''the opportunity to further regulatory reform''. Mr. Reagle further stated that ''This early step toward reform will set the tone for our entire regulatory future * * *.''

A centerpiece with no participants is an empty centerpiece. Words of self-praise are an inadequate response. The law was clear and implementation is overdue.

Mr. DORGAN. Mr. President, it seems to me that if there has not been a single participant in this program—which was intended as a way to relieve the regulatory burden on those companies that have demonstrated a good safety record—then something is amiss with this program.

I would hope that the Department would take a second look at this program and give serious consideration to making some changes that will permit the program to work in the manner in which Congress intended. It is clear that Congress desired to establish a means to achieve some regulatory relief and, thus far, we have not seen that result.

Mr. LOTT. Mr. President, I fully agree with the Senator. I do not believe the Department has followed the provisions established under the National Highway System Designation Act. I am disappointed.

The Senate Committee on Commerce, Science and Transportation has been working to advance legislation expanding the Department of Transportation's use of pilot programs and regulatory exemptions. I will be working with the committee to help reduce, as much as is safely possible, some of the unnecessary regulations and paperwork imposed on the motor carrier industry.

Given the Department's handling of the motor safety demonstration project to date, I am very concerned about the Department's sincerity in implementing such legislatively mandated programs. I will also be working very closely with the committee to ensure that the mandates we have already passed are complied with by the Department of Transportation.

AMERICAN MANUFACTURING AT ITS BEST

Mr. FORD. Mr. President, today I rise to pay tribute to the Paducah gaseous diffusion plant [PGDP] in Paducah, KY. On October 20, 1997, Industry Week Magazine recognized the Paducah facility as one of ''America's 10 Best Plants'' from among 275 plants nominated for the honor in 1997.

According to Industry Week, a national publication which annually salutes the top performing manufacturing facilities in North America, the dual purposes of the competition are ''to recognize plants that are on the leading edge of North American efforts to increase competitiveness, enhance customer satisfaction, and create stimulating and rewarding work environments; and, to encourage other North American managers and work teams to emulate the honorees by adopting world-class practices, technologies, and improvement strategies.''

There is no question that the Paducah facility, a federally owned nuclear fuel enrichment plant managed by Lockheed Martin Utility Services, meets these criteria. In fact, it is a model for any manufacturing plant in any industry in the country. Over the past 10 years, the Paducah plant has nearly tripled output from 2.3 million units per year to 6.8 million units per year. And this amazing increase in productivity was achieved using existing equipment and machinery. Similarly, the percentage of production units inline has risen from 57 percent of capacity in August 1993, to an impressive 96.9 percent in April 1997. To top it all off, the Paducah facility boasts 100 percent on-time delivery for the past 5 years with a zero product defect rate. Now that, Mr. President, is what quality American manufacturing is all about.

On July 25, the Clinton administration gave formal approval to move forward with privatization for the U.S. Enrichment Corporation [USEC], the Government entity that currently owns PGDP. Hopefully, this process will be completed early in 1998. As I have maintained for the better part of 10 years, privatization will not only enable Paducah to utilize cutting edge technologies to keep it competitive in the world uranium market, it will also keep thousands of productive employees on the job well into the next century.

Mr. President, I ask unanimous consent that the article entitled ''Lockheed Martin Utility Services'' be printed in the RECORD following my remarks.

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

[From Industry Week, Oct. 20, 1997]

LOCKHEED MARTIN UTILITY SERVICES

(By John H. Sheridan)

Perhaps it has something to do with the fact that the huge production facility he runs is located smack dab in the middle of a 4,000-acre wildlife refuge—complete with pesky beavers and a herd of deer. Or maybe he just enjoys telling animal stories. But if you ask Steve Polston about the management philosophy that drove culture change—and an impressive business turnaround—at the Paducah Gaseous Diffusion Plant (PGDP) in Paducah, Ky., be prepared for a few lessons in zoology.

For instance, there's his yarn about the ''tiger rabbit''—a creature that has become the stuff of western Kentucky legend.

Polston, who is general manger at PGDP, a nuclear-fuel enrichment facility owned by the federal government and managed by Lockheed Martin Utility Services, likes to show a picture of one of these critters. It's your basic rabbit, but it has black-and-orange stripes. ''It might look a little bit like a tiger,'' says Polston, ''but you can't expect it to act like a tiger.''

In a sense, that was his perception of the PGDP complex about five years ago, when the initial steps were taken to begin transforming the 1,550-employee facility from a financially struggling unit of the U.S. Dept. of Energy (DOE) into a businesslike operation. An important step was passage of the Energy Policy Act of 1992, which spun the Kentucky facility out of DOE—along with a sister plant in Portsmouth, Ohio—and into a newly created government entity, the U.S. Enrichment Corp. (USEC). Legislation adopted in 1996 set in motion a plan to eventually privatize the business.

''In the beginning,'' says Polston, ''we knew we weren't a real business—even though they called us a business.''

For one thing, the culture of the plant was mired in a can't-do mentality, the legacy of years of bureaucratic oversight. For another, costs were out of control. ''We had been losing market share because our costs were going up rapidly,'' Polston recalls. In the early 1990s DOE analysts had projected that USEC's world market share would drop from 46% to less than 20% by the year 2000. And there was speculation that the two plants might close for good early in the 21st century—a rather ominous projection, since the USEC plants together supply 80% of the fuel to run nuclear powerplants in this country. If they shut down, the U.S. would no longer be self-sufficient in nuclear-fuel-processing capability.

In trying to turn things around, the first challenge was to get costs under control. But it was clear that would require cultivating new attitudes—in the management ranks as well as among the unionized workforce, which is represented by the Oil, Chemical & Atomic Workers (OCAW) Local 3550 and the United Plant Guard Workers of America.

Explaining PGDP's approach to cost-control issues, Polston sets the stage with—you guessed it—another animal story. When an elephant is young, he points out, it is trained to stay in place by a short tether attached to its leg and tied to a stake. After years of conditioning it associates the tether with an inability to move about freely. ''When an elephant grows up,'' Polston explains, ''you can hold it in place with a piece of old clothesline. After I came here six years ago, I began to envision us as a big elephant restrained by a small rope. Our workers thought it was impossible to get our costs down.''

One way to begin changing that mentality was an infusion of new management blood. Polston began recruiting senior managers with backgrounds in commercial nuclear power—people who understood the realities of a competitive business environment. ''I wanted to break that rope,'' he explains. ''I wanted their private-sector mentality to rub off on us.''

He also began preaching the merits of cycle-time reduction and elimination of non-value-added activity. At the same time, training, communications, and quality and teamwork initiatives were intensified—with the support of OCAW union leaders.

A primary cost-reduction thrust has been to emphasize the use of lower-cost, nonfirm power, since electricity represents 60% of the facility's total costs. To accomplish this, the plant took a more aggressive approach in using freezer/sublimer equipment developed by the Paducah engineering staff, as well as a sophisticated computer system, enabling the plant to reduce power consumption during high-price periods and then make up the production slack by increasing power usage during off-peak hours when rates are lower.

A second key initiative—which called for broad involvement by the workforce and rigorous adherence to procedures—was to improve the reliability of process equipment. A strong preventive-maintenance program was beefed up, and workers were encouraged to participate widely in a problem-reporting system that has cultivated a continuous-improvement mentality. When an employee points out a problem or potential problem, it goes into a corrective-action system that plant officials describe as a ''bear trap'' that forces follow-up activity. In some cases, joint union-management teams are formed to investigate and implement solutions. In 1996 the problem-reporting/suggestion system identified 6,000 plant issues—generating about 10 times as many improvement ideas as in years past.

When an employee fills out a problem-report form, he or she is required to include suggestions on how to solve the problem. ''Some of the suggestions have been very creative and insightful,'' Polston notes. ''We identify low-threshold problems before they become bigger problems.'' Coupled with the problem-reporting system has been an extensive effort to train employees in root-cause-analysis methods.

At the core of PGDP's extensive employee-communications program has been an effort to translate business goals established by USEC into terminology and objectives that the entire workforce can identify with. After a winnowing process, emphasis was placed on three key goals:

Ensure an accident-free environment.

Strive to get 100% of the plant's production cells on stream.

Reduce the cost of SWUs—that is, ''separated work units,'' a measure of the effort required to boost the U235 level in the uranium hexafloride (UF_6) processed by hundreds of ''converters'' in the four-building production complex.

To keep employees abreast of progress toward the goals, the latest performance metrics are posted on a large sign at the entrance to the property, so that when they drive in each morning workers know exactly how they're doing. In addition, color-coded charts posted in strategic locations provide at-a-glance updates on progress toward the current Top 10 plant objectives—which are established annually under the PGDP Quality of Operations plan.

So how they have been doing?

Well, the predicted falloff in market share never occurred. In fact, since 1992 USEC—which generates more than one-third of its annual revenues from sales to overseas customers—has increased its domestic market share and boosted its export sales. In the last five years the Paducah plant has reduced its manufacturing costs by nearly 11% while establishing an enviable record of shipping product 100% on-time and 100% within specification—without maintaining an inventory buffer. And the folks at USEC headquarters in Washington have ample reason to be pleased with the bottom-line results.

''We're an example of efficiency in the public sector—and we make a tidy profit for the U.S. Treasury,'' says John R. Dew, who oversees training programs at Paducah and carries an unusual title—manager of mission success. ''Our management team has taken a 45-year-old bureaucratic government operation and turned it into a profitable business that is at the top of President Clinton's list for privatization,''

For 1996 USEC was able to report net income of $304.1 million on sales of $1.41 billon—an enviable 21.6% profit margin. If the U.S. Treasury Dept, the USEC's sole shareholder, eventually does approve the sale of the business to private interests—a move that could take place early next year—it will mean a nice windfall for Uncle Sam. By some estimates, the sale could prove to be the biggest U.S. privatization move ever, exceeding the $1.6 billion sale of Conrail in 1987.

Securing final approval of the sale could prove a bit sticky, however, since the new owners would obtain access to what is still considered highly classified technology—including AVLIS, a next-generation enrichment process being developed by USEC, in conjunction with Bechtel Corp.

Perhaps a little history will put the national security issues into perspective. The Paducah facility was built in 1952 by the old Atomic Energy Commission, under orders from President Harry Truman, to produce enriched uranium for thermonuclear warheads—as a hedge against possible war in Southeast Asia. The site met all of the official site-selection criteria established during the early years of the Cold War and at the height of Sen. Joseph McCarthy's anti-Communism crusade. For one thing, Paducah was more than 100 miles from any city with ''known Communist activity.''

In addition to the official criteria, the site selection no doubt also was influenced by the fact that Paducah was the home town of Alben W. Barkley, then U.S. vice president.

By 1964 the U.S. had developed an ample supply of weapons-grade nuclear material, and the Paducah facility was converted to production of fuel for nuclear power plants. In simple terms, the enrichment process involves heating cylinders containing solid UF_6 until it gasifies, then forcing the gas through a miles-long enrichment ''cascade''—a series of converters separated by jet-engine-like compressors. In each converter, uranium molecules pass through a porous material, which gradually separates the lighter U235 molecules from the heavier U238 molecules—creating an ''enriched'' stream with a higher concentration of U235. The enriched stream is eventually withdrawn and cooled to a solid state in 14-ton cylinders.

Electrical power to drive the 1,860 motors in the system comes from two primary utilities—including a nearby Tennessee Valley Authority plant—along with electricity purchased in the open market and ''wheeled'' to the Paducah site. The power is distributed through four large power switchyards, one for each of the four processing plants. ''Just one of these switchyards could handle the power needs of a city the size of Washington, D.C.,'' explains Terry Sorrel, customer-relations representative.

The heart of the production complex is a large circular control room that monitors the operation of all the equipment on site. One section of the control room, called the

''Power Pit,'' manages the purchase and distribution of all electrical power used throughout the facility. ''Our goal,'' says Ron Taylor, power-operations manager, ''is to have a reliable power supply at the lowest possible cost.''

Thanks to the sophisticated freezer/sublimer equipment, the power load can be quickly adjusted by freezing or subliming up to 200 tons of uranium gas. To reduce power requirements, UF_6 gas is withdrawn from the system and frozen.

Much of PGDP's progress during the last five years can be attributed to a cooperative union-management relationship, which has led to the creation of joint union-management teams at various levels. For example, an empowered union-management team developed a system to provide better heat protection to people working in high-temperature areas. Teams also have improved quality and maintenance efficiency (the site has 300 maintenance workers). And one team developed a six-year plan for facility upgrades.

Now, an effort is underway to expand the team concept by creating high-performance work teams that will be responsible for day-to-day operations. Added impetus for this initiative came from a visit by union and management representatives to another Lockheed Martin plant—a former ''Best Plants'' winner—in Moorestown, N.J. ''Teamwork is a win/win situation, but we realized that we were functioning on a project basis,'' says Steve Penrod, operations manager. ''At Moorestown, we saw a culture of teamwork in day-to-day activities.''

Union officials support the high-performance team concept, says Mike Jennings, an OCAW representative for continuous-improvement programs. ''It is a slow process, since it is a big change in culture,'' he says. ''We aren't going to force teams on anyone.''

Paducah has taken a team approach to operations performance improvement, placing heavy emphasis on a ''conduct of operations'' code that demands ''rigorous attention to detail,'' says Penrod. As part of the effort, a team including hourly workers developed a ''Code of Professionalism'' that specified how employees should conduct themselves on the job.

Undergirding all of the performance-improvement efforts at Paducah has been an extensive communications effort—which includes ''All-Hands Meetings'' twice a year for 1,200 or more employees. ''At these meetings, we reinforce our expectations, we discuss our performance measures, and we give people the opportunity to comment and raise any issues they may have,'' explains Howard Pulley, enrichment plant manager. ''Among other things, they may tell us which of our systems are causing them to not be efficient.''

Then there are ''C2'' meetings—in which small groups of employees focus on compliments and concerns. Every other month, 15 people are selected at random to participate. After discussion, the groups vote on their top three compliments—citing things that are being done well—as well as their top three concerns. ''We follow up on their issues and then provide feedback,'' Pulley says.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING OCTOBER 24

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending October 24, the United States imported 7,482,000 barrels of oil each day, 1,104,000 barrels more than the 8,586,000 imported each day during the same week a year ago.

Americans relied on foreign oil for 54 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil? By U.S. producers using American workers?

Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 7,482,000 barrels a day.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, October 30, 1997, the Federal debt stood at $5,430,869,894,529.83 (Five trillion, four hundred thirty billion, eight hundred sixty-nine million, eight hundred ninety-four thousand, five hundred twenty-nine dollars and eighty-three cents).

One year ago, October 30, 1996, the Federal debt stood at $5,237,762,000,000 (Five trillion, two hundred thirty-seven billion, seven hundred sixty-two million).

Five years ago, October 30, 1992, the Federal debt stood at $4,067,329,000,000 (Four trillion, sixty-seven billion, three hundred twenty-nine million).

Ten years ago, October 30, 1987, the Federal debt stood at $2,384,800,000,000 (Two trillion, three hundred eighty-four billion, eight hundred million).

Twenty-five years ago, October 30, 1972, the Federal debt stood at $439,230,000,000 (Four hundred thirty-nine billion, two hundred thirty million) which reflects a debt increase of nearly $5 trillion—$4,991,639,894,529.83 (Four trillion, nine hundred ninety-one billion, six hundred thirty-nine million, eight hundred ninety-four thousand, five hundred twenty-nine dollars and eighty-three cents) during the past 25 years.

TECHNICAL CORRECTIONS TO THE SATELLITE HOME VIEWER ACT OF 1994

Mr. HATCH. Mr. President, I rise today to laud the Senate passage of H.R. 672. This legislation, which was introduced by Congressman COBLE in the House of Representatives, is the counterpart to legislation I introduced in the Senate on March 20 of this year—the Copyright Clarification Act of 1997, S. 506. The Copyright Clarification Act was reported unanimously by the Senate Judiciary Committee on April 17.

The purpose of these bills is to make technical but needed changes to our Nation's copyright laws in order to ensure the effective administration of our copyright system and the U.S. Copyright Office. The need for these changes was first brought to my attention by the Register of Copyrights, Marybeth Peters, and I want to thank her for her outstanding work.

Among the most important amendments made by H.R. 672 is a clarification of the Copyright Office's authority to increase its fees for the first time since 1990 in order to help cover its costs and to reduce the impact of its services on the Federal budget and the American taxpayer. This clarification is needed because of ambiguities in the Copyright Fees and Technical Amendments Act of 1989, which authorized the Copyright Office to increase fees in 1995, and every fifth year thereafter. Because the Copyright Office did not raise its fees in 1995, as anticipated, there has been some uncertainty as to whether the Copyright Office may increase its fees again before 2000 and whether the baseline for calculating the increase in the consumer price index is the date of the last actual fees settlement—1990—or the date of the last authorized fees settlement—1995. H.R. 672 clarifies that the Copyright Office may increase its fees in any calendar year, provided it has not done so within the last 5 years, and that the fees may be increased up to the amount required to cover the reasonable costs incurred by the Copyright Office.

Although H.R. 672 does not require the Copyright Office to increase its fees to cover all its costs, I believe it is important in that it provides the Copyright Office the statutory tools to become self-sustaining—a concept that I promoted in the last Congress. Currently the Copyright Office does not recover the full costs of its services through fees, but instead receives some $10 million in annual appropriations.

Several studies have supported full-cost recovery for the Copyright Office. For example, a 1996 Booz-Allen & Hamilton management review of the Library of Congress recommended that the Copyright Office pursue full-cost recovery, noting that the Copyright Office has been subject to full-cost recovery in the past and that the potential revenues to be derived from pursuing a fee-based service was significant. A 1996 internal Copyright Office management report prepared by the Library of Congress also recommended full-cost recovery for copyright services. The Congressional Budget Office has also suggested full-cost recovery for the Copyright Office as a means of achieving deficit reduction. These recommendations were endorsed by the General Accounting Office in its recent report, ''Intellectual Property, Fees Are Not Always Commensurate with the Costs of Services.''

It is my understanding that the Copyright Office has embraced the goal of achieving full-cost recovery for its copyright services. H.R. 672 will provide the authority to achieve that goal, and by passing this legislation this year, the Copyright Office will be able to move expeditiously to adjust their fees for the coming year.

I also want to note the importance of the amendment which the Senate has adopted to H.R. 672 to overturn the ninth circuit's decision in *La Cienega Music Co.* v. *ZZ Top,* 53 F.3d 950 (9th Cir. 1995), *cert denied,* 116 S. Ct. 331 (1995). My colleagues will recall that Senator LEAHY and I introduced this legislation in March of this year as a provision of S. 505, the Copyright Term Extension Act of 1997.

In general, LaCienega held that distributing a sound recording to the public—by sale, for example—is a ''publication'' of the music recorded on it under the 1909 Copyright Act. Under the 1909 Act, publication without copyright notice caused loss of copyright protection. Almost all music that was first published on recording did not contain copyright notice, because publishers believed that it was not technically a publication. The Copyright Office also considered these musical compositions to be unpublished. The effect of La Cienega, however, is that virtually all music before 1978 that was first distributed to the public on recording has no copyright protection—at least in the ninth circuit.

By contrast, the second circuit in *Rosette* v. *Rainbo Record Manufacturing Corp.* 546 F.2d 461 (2d Cir. 1975), aff'd per curiam, 546 F.2d 461 (2d Cir. 1976) has held the opposite—that public distribution of recordings was not a publication of the music contained on them. As I have noted, Rosette comports with the nearly universal understanding of the music and sound recording industries and of the Copyright Office.

Since the Supreme Court has denied cert in La Cienega, whether one has copyright in thousands of musical compositions depends on whether the case is brought in the second or ninth circuits. This situation is intolerable. Overturning the La Cienega decision will restore national uniformity on this important issue by confirming the wisdom of the custom and usage of the affected industries and of the Copyright Office for nearly 100 years.

In addition to these two important provisions, H.R. 672 will:

First, correct drafting errors in the Satellite Home Viewer Act of 1994, which resulted from the failure to take into account the recent changes made by the Copyright Tribunal Reform Act of 1993, and which mistakingly reversed the rates set by a 1992 Copyright Arbitration Royalty Panel for Satellite carriers;

Second, clarify ambiguities in the Copyright Restoration Act dealing with the restoration of copyright protection for certain works under the 1994 Uruguay Round Agreements Act;

Third, ensure that rates established in 1996 under the Digital Performance Rights in Sound Recordings Act will not lapse in the event that the Copyright Arbitration Royalty Panel does not conclude rate-setting proceedings prior to Dec. 31, 2000.

Fourth, restore definition of ''jukebox'' and ''jukebox operator,'' which were mistakingly omitted when the old jukebox compulsory license was replaced with the current negotiated jukebox license;

Fifth, revise the currently unworkable requirement of a 20-day advanced notice of intent to copy right the fixation of live performances, such as sporting events;

Sixth, clarify administrative issues regarding the operation of the Copyright Arbitration Royalty Panels;

Seventh, provide needed flexibility for the Librarian of Congress in setting the negotiation period for the distribution of digital audio recording technology [DART] royalties; and,

Eighth, make miscellaneous spelling, grammatical, capitalization and other corrections to the Copyright Act.

Mr. President, this is important legislation, and I am pleased the Senate has acted to approved it prior to adjourning this fall. I wish to thank my colleagues and to encourage the House to accept the Senate amendment and to forward H.R. 672 to the President for his signature without delay.

DEPARTMENT OF DEFENSE AUTHORIZATION BILL CONFERENCE REPORT

Mr. JEFFORDS. Mr. President, for the past few days, the Senate has been considering the conference report to accompany the Department of Defense authorization bill for fiscal year 1998. While there are several areas of controversy, I would like to highlight one area that I believe has not been given sufficient consideration: funding for the National Guard.

This bill contains a couple of disturbing provisions, not so much for their immediate impact, but for their long-term consequences. First, the proposal to add a representative for the Guard and Reserves on the Joint Chiefs of Staff, which I strongly support, has been watered down to call for two two-star advisors to the Chairman of the JCS. Mr. President, this is essentially the same role that the head of the National Guard Bureau has today. I do not see this as an enhancement of the Guard's status in the highest circles of decisionmaking. And I'm told that in the Pentagon, two two-stars don't equal a four. I am afraid that the current pattern of decisionmaking is responsible for the shortfall in resources for the National Guard that we see in the legislation before us, and if it is not altered in a significant manner, the National Guard is likely to have greater problems in the future.

The other provision that I would like to draw my colleagues attention to is the cut in Army National Guard personnel endstrength of 5,000. Mr. President, we all understand that over the next few years, endstrengths will come down for all the services. But what this bill does is to pick out one component of the military and require it to make a significant cut without calling on other components to begin their agreed-upon reductions. In fact, this bill forces reductions in the only part of the U.S. Army to actually meet its endstrength requirements. I am not sure that all my colleagues realize that because the Army National Guard is actually over its required endstrength by about 2,000 people, the legislation will force the layoff of more than 5,000 young men and women who are currently serving their country. Whereas if similar cuts were to come in the active component, the cuts would be implemented in large part by eliminating unfilled positions. This does not seem to me to be the way to maintain a dedicated cadre of military professionals.

Finally, I speak out today because I am concerned that this legislation may be taken as a sign by some as a change in Congress' attitude toward the National Guard. I very strongly believe that the future of the U.S. Armed Forces must include a greater role for the Guard and Reserves, not a diminished one. As defense resources shrink, as the nature of our employment structures change, and as we develop better tools for keeping our weekend warriors up to speed as top quality practioners of their military arts, we must put more of our faith in that part of the U.S. military that is closest to the people—the National Guard.

For too long, Congress has been seen as the primary bastion of support for the Guard and Reserves—not the Pentagon. An example of this is the administration's request for no new procurement funds for fiscal year 1998 for the Army Guard and Air Guard, out of a total procurement budget request of $42,883,000,000. This is not only unrealistic—it is dangerous. And until the administration sends up a more balanced request, Congress will have to continue its vigilance on behalf of the Guard. But this is not the way it should be, Mr. President, and I am disappointed that the bill before us today did not take advantage of the opportunity to change this situation.

It is my impression that a great debate continues to rage on the future structure of our military forces. I trust that this bill will not be taken as Congress' comments on that discussion, and that renewed energy will go into finding a better solution to these dilemmas in the coming 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.)

MESSAGES FROM THE HOUSE

At 11:58 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1479. An act to designate the Federal building and United States courthouse located at 300 Northeast First Avenue in Miami, Florida, as the ''David W. Dyer Federal Building and United States Courthouse.''

H.R. 1484. An act to redesignate the United States courthouse located at 100 Franklin Street in Dublin, Georgia, as the ''J. Roy Rowland United States Courthouse.''

H.R. 2493. An act to establish a mechanism by which the Secretary of Agriculture and the Secretary of the Interior can provide for uniform management of livestock grazing on Federal lands.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 1479. An act to designate the Federal building and United States courthouse located at 300 Northeast First Avenue in Miami, Florida, as the ''David W. Dyer Federal Building and United States Courthouse''; to the Committee on Environment and Public Works.

H.R. 1484. An act to redesignate the United States courthouse located at 100 Franklin Street in Dublin, Georgia, as the ''J. Roy Rowland United States Courthouse''; to the Committee on Environment and Public Works.

H.R. 2493. An act to establish a mechanism by which the Secretary of Agriculture and the Secretary of the Interior can provide for uniform management of livestock grazing on Federal lands; to the Committee on Energy and Natural Resources.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on October 31, 1997 he had presented to the President of the United States, the following enrolled bill:

S. 1227. An act to amend title I of the Employee Retirement Income Security Act of 1974 to clarify treatment of investment managers under such title.

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 3275. A communication from the Acting Assistant Secretary of Defense (Health Affairs), transmitting, pursuant to law, a report relative to TRICARE; to the Committee on Armed Services.

EC 3276. A communication from the Director of the Washington headquarters Services, Department of Defense, transmitting, pursuant to law, a rule entitled ''Champus TRICARE Support Office'' (RIN0720–AA42) received on October 21, 1997; to the Committee on Armed Services.

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–291. A resolution adopted by the Senate of the Legislature of the State Michigan; to the Committee on Appropriations.

SENATE RESOLUTION NO. 69

Whereas, In 1986, Congress created the Leaking Underground Storage Tank Trust Fund through legislation amending the Resource Recovery and Conservation Act. The fund was financed through a 0.1 cent tax on each gallon of motor fuel sold. The tax levy, which was reauthorized in 1990, expired on December 31, 1995. The fund has approximately $1.5 billion in it; and

Whereas, The purpose of the money generated by the Leaking Underground Storage Tank Trust Fund is two-fold. It seeks to enforce corrective actions where the owner of a leaking tank is known and cleanup activities where the owner is not known or is unable or unwilling to pay. The fund's proceeds are distributed to the states on a formula based on criteria determined by federal officials. Factors include levels of contamination, the number of leaking tanks, the number of cleanup efforts, and danger to drinking supplies; and

Whereas, Over the years, not enough money from the trust fund has gone to fighting the effects of leaking underground storage tanks. Almost all of the fund's proceeds go toward administration and enforcing the program. It is estimated that only 1 percent of fund money spent each year goes to clean up orphan tanks; and

Whereas, In an effort to increase cleanup initiatives and to deal with a problem that gets worse with the passage of time, Congress is considering legislation to revamp the manner in which the money in the Leaking Underground Storage Tank Trust Fund is distributed. The legislative proposals offer a more pragmatic approach by providing for the Environmental Protection Agency to distribute the money to the states with more authority for the states. The states are in far better positions to determine how best to meet the aims of cleanup and enforcement. With a formula for distributing the funds based on what the states contributed to the fund, a far greater positive impact can be made in cleaning up our environment; Now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to provide for the distribution of the Leaking Underground Storage Tank Trust Fund's proceeds to the states for cleanup projects determined by the states; 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, and the members of the Michigan congressional delegation.

POM–292. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

ASSEMBLY JOINT RESOLUTION NO. 13

Whereas, The Congress of the United States of America is considering the ratification of the balanced budget amendment to the Constitution of the United States of America; and

Whereas, Amendment the Constitution of the United States should not be entered into without the full knowledge of the California Legislature as to the economic and human consequences of the amendment on the State of California; and

Whereas, The potential impact of the balanced budget amendment without protections for seniors, medicare recipients, and social security recipients, upon the State of California and its individual citizens could be massive and without precedent; and

Whereas, Older American in this country have labored their entire life to prosper and succeed to make America great; and

Whereas, Congress should take every step to exempt social security from the balanced budget amendments; and

Whereas, Congress needs to adopt a hands-off approach to social security and the Medicare system and stop any further action to hurt older Americans; and

Whereas, All efforts should be continued to keep social security from the balanced budget amendment since Congress took it ''off budget'' in 1990; and

Whereas, The Legislature of the State of California needs sufficient information and data upon which to base its appraisal of the impact of the balanced budget amendment; Now, therefore, be it

Resolved by the Assembly and Senate of the State of California jointly, That the Legislature respectfully memorializes the President and Congress of the United States to continue efforts to indefinitely ensure that social security is not threatened in any way, to protect older Americans who are receiving social security and Medicare from undue harm and stress from the continuing dialogue to stop any effort to hurt the income security of older Americans, to ensure that everything necessary is being done to make sure that older Americans continue to receive all that they are entitled to and deserve, and to ensure the solvency of social security and Medicare for future generations of taxpayers and senior citizens entitled to the benefits provided by those programs; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–293. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

JOINT RESOLUTION NO. 18

Whereas, The United Nations Commission on the Status of Women formulated a document entitled the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); and

Whereas, The United Nations General Assembly adopted the Convention, and opened it for signature in December 1979; and

Whereas, The Convention, sometimes called an international Bill of Rights for women, obligates those countries that have ratified or acceded to it to take all appropriate measures to ensure the full development and advancement of women in all spheres, including political, educational, employment, health care, economic, social, legal, marriage and family relations, as well as to modify the social and cultural patterns of conduct of men and women to eliminate prejudice, customs, and all other practices based on the idea of the inferiority or superiority of either sex; and

Whereas, Fifty-two countries, including the United States, signed the Convention during the 1980 Mid-Decade Conference for Women in Copenhagen, Denmark; and

Whereas, To date, 160 countries, representing over half the countries of the world, have now ratified or acceded to the Convention; and

Whereas, The United States has not yet ratified or acceded to the Convention; Now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California commends the

local, national, and international efforts of the National Committee on the United Nations to promote the universal adoption of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, and urges the United States Senate to ratify CEDAW; and be it further

Resolved, That the Assembly and the Senate of the State of California shall work to ensure the elimination of discrimination against women and girls in the State of California, as they pursue the enjoyment of all civil, political, economic, and cultural rights, as expressed in the CEDAW treaty; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–294. A resolution adopted by the House of the Legislature of the Commonwealth of Puerto Rico; to the Committee on Foreign Relations.

RESOLUTION

Whereas, The Commonwealth of Puerto Rico and the province of Taiwan of the Republic of China enjoy a close and long standing relationship;

Whereas, Dr. Sun Yat-Sen, founder the Republic of China, has been recognized as a national patriot by all the governments of modern China and in harmony with his principles, the government of the Republic of China in Taiwan has consistently shown its commitment towards world peace and stability, economic and social-regional development, international mutual assistance, democratization processes and political and economic freedom;

Whereas, the economy of the Republic of China in Taiwan makes it, at present, the fourteenth largest commercial country, the twentieth in gross national product and the twenty-fifth in gross per capita income;

Whereas, the population of the Republic of China in Taiwan is greater than the population of two-thirds of the present members of the United Nations Organizations;

Whereas, the people of the Republic of China in Taiwan deserve appropriate recognition and credit for their dynamic role in the international community;

Whereas, the creation of an ad hoc committee for the study of the exceptional situation of the people of the Republic of China in Taiwan in the international community, has been proposed before the United Nations Organization in order to advance fair and viable solutions which will allow its participation in the international bodies under the aegis of the United Nations Organization;

Whereas, there is a precedent for the full participation of the Republic of China in Taiwan in the United Nations Organization and its affiliated bodies, such as the participation formerly granted to nations divided between two governments such as Korea, and as were Germany and Yemen for many years before their unification;

Whereas, since the People of Puerto Rico lack the power to directly influence the President and the United States Congressmen who direct the foreign and diplomatic policy which applies to Puerto Rico by vote, it is essential for this High Body to state its feelings on this matter to them. Now therefore: be it

Resolved by the House of Representatives of Puerto Rico:

Section 1.—To hereby request the President and the Congress of the United States to give their utmost attention and action support to the Republic of China in Taiwan as an important participant in international commerce and trade, and as a former ally, and in support of its efforts to attain its full participation in the international community bodies.

Section 2.—To have this Resolution translated into the English language, and remit copies thereof to the President and to the Congress of the United States, and to the Representatives of the Republic of China in Taiwan.

POM–295. A resolution adopted by the House of the Legislature of the Commonwealth of Puerto Rico; to the Committee on Energy and Natural Resources.

RESOLUTION

STATEMENT OF MOTIVES

Information published in the United States indicates that in recent months a controversy has arisen regarding the manner in which the Federal Census for the year 2000 shall be conducted. The controversy is basically about proposed methodology.

The Bureau of the Census plans to use the statistical sampling technique, alleging that it is necessary in order to correct the situation of the previous census which failed to count some one point six (1.6) percent of the population of the United States or around four million (4,000,000) persons, according to its own estimates. It is estimated that if the sample is not used, one point nine (1.9) percent of the population shall not be counted and that six hundred seventy-five (675) to eight hundred (800) million dollars would be necessary in addition to the four billion it expects to spend.

From the above, it can be inferred that a census with statistical sampling is more reliable and less costly than that which does not use the sample. It is also important to indicate that experience has shown that the endemic problem of the population that is uncounted mainly affects the minorities, and among them, Hispanics.

We wish to join our efforts to those of Martha Farnsworth Richie, Director of the Bureau of the Census, Barbara E. Bryant, former Director of the Bureau of the Census under former President Bush, the two panels of the National Research Council, one of which is directed by Charles L. Schulze, who worked for Brookings Institution, to the American Statistics Association, the United States Conference of Mayors, organizations of legal counsel for minority groups such as the Civil Rights Leadership Council, the majority of the members of Congress affiliated to the Democratic Party, Republican Congressmen such as Senator John McCain from Arizona and Congressman Christopher Shays from Connecticut, as well as state governments such as New York and Los Angeles, all these who favor the use of statistical sampling in the Census.

It seems to us that the arguments set forth by those who oppose the use of samples based on considerations of public order, lack validity. The Chairman of the National Republican Party, Jim Nicholson, has been quoted as saying that based on an undisclosed internal report, that Republicans could lose up to twenty-five (25) seats in the House of Representatives if statistic sampling is used in the Census for the year 2000. This has been denied by other sectors. A study conducted by the Congressional Investigation Service based on the projections of the Census of 1996, reflects that eleven (11) seats would change hands and that states such as Texas, Arizona and Georgia would gain two (2) seats, while New York and Pennsylvania would lose two (2) seats.

The argument that a Census with sampling would be unconstitutional and that additional costs would be avoided if the Supreme Court annuls a census with the sample do not convince us either.

Department of Justice Opinions under the administrations of Clinton, Carter and Bush conclude that the Constitution does not exclude the use of the sample. We firmly believe that the constitutional right of equal protection under laws of the United States of the persons omitted in the past by the Census were violated, and that those mainly affected are members of minority groups that are not counted for reasons such as higher rates of multiple families living together, changes of residence and cases of homeless people, which mostly affect minority groups than the rest of the population.

In the spirit that justice be done from the economic point of view, as well as from the political point of view through equal treatment to all the residents of the United States, we urge the President and the Congress of the United States to support a Federal Census using the methodology proposed by the Bureau of the Census so that the five (5) million persons who would be omitted from the statistics of the Census if the statistical sampling is not used, can be counted, be it

Resolved by the House of Representatives of Puerto Rico:

Section 1.—To urge President William Jefferson Clinton and the Congress of the United States to support the methodology proposed by the United States Bureau of the Census to conduct the Federal Census of the year 2000.

Section 2.—A copy of this Resolution shall be remitted to the President of the United States, as well as to the Speaker of the House and President of the Senate of the United States of America, to the Floor leaders of the various parliamentary delegations, and to the Black Caucus and Hispanic Caucus of the Congress, the Governor of Puerto Rico and the Resident Commissioner of Puerto Rico in the United States, in English and in Spanish.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 960. A bill to validate certain conveyances in the City of Tulare, Tulare County, California, and for other purposes (Rept. No. 105–127).

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute and an amendment to the title:

S. 1180. A bill to reauthorize the Endangered Species Act (Rept. No. 105–128).

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 318. A bill to amend the Truth in Lending Act to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required by a creditor as a condition for entering into a residential mortgage transaction, and for other purposes (Rept. No. 105–129).

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, with an amendment:

S. 1228. A bill to provide for a 10-year circulating commemorative coin program to commemorate each of the 50 States, and for other purposes (Rept. No. 105–130).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry:

Sally Thompson, of Kansas, to be Chief Financial Officer, Department of Agriculture.

Joseph B. Dial, of Texas, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring June 19, 2001. (Reappointment)

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. GRASSLEY (for himself and Mr. DURBIN):

S. 1352. A bill to amend Rule 30 of the Federal Rules of Civil Procedure to restore the stenographic preference for depositions; to the Committee on the Judiciary.

By Mr. FRIST (for himself, Mr. LOTT, and Mr. THOMPSON):

S. 1353. A bill to amend title 49, United States Code, to provide assistance and slots with respect to air carrier service between high density airports and airports that do not receive sufficient air service, to improve jet aircraft service to underserved markets, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MCCAIN (for himself, Mr. CAMPBELL, Mr. INOUYE, Mr. DASCHLE, and Mr. DORGAN):

S. 1354. A bill to amend the Communications Act of 1934 to provide for the designation of common carriers not subject to the jurisdiction of a State commission as eligible telecommunications carriers; to the Committee on Commerce, Science, and Transportation.

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 1355. A bill to designate the United States courthouse located in New Haven, Connecticut, as the ''Richard C. Lee United States Courthouse''; to the Committee on Environment and Public Works.

By Mr. FAIRCLOTH:

S. 1356. A bill to amend the Communications Act of 1934 to prohibit Internet service providers from providing accounts to sexually violent predators; to the Committee on Commerce, Science, and Transportation.

By Mr. DORGAN:

S. 1357. A bill to require the States to bear the responsibility for the consequences of releasing violent criminals from custody before the expiration of the full term of imprisonment to which they are sentenced; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. D'AMATO:

S. Con. Res. 59. A concurrent resolution expressing the sense of Congress with respect to the human rights situation in the Republic of Turkey in light of that country's desire to host the next summit meeting of the heads of state or government of the Organization for Security and Cooperation in Europe (OSCE); to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself and Mr. DURBIN):

S. 1352. A bill to amend rule 30 of the Federal Rules of Civil Procedure to restore the stenographic preference for dispositions; to the Committee on the Judiciary.

THE FEDERAL RULES OF CIVIL PROCEDURE RULE 30 AMENDMENT ACT OF 1997

Mr. GRASSLEY. Mr. President, I rise today to introduce a bill to amend rule 30 of the Federal Rules of Civil Procedure. This bill, which I am introducing with Senator DURBIN, will restore the stenographic preference for depositions taken in Federal Court. Under our system of government, Congress has the duty and responsibility to scrutinize carefully all of the rules of Civil Procedure promulgated by the Judicial Conference and transmitted to us by the Supreme Court for review—and to make modifications or deletions when appropriate. Indeed, when many changes to the rules were proposed in 1993, some were to be modified in legislation which was passed by the House. Unfortunately, the crush of the end-of-session legislation that year made it impossible for the Senate to act on this bill to modify these changes and they took effect in December of that year.

Many of us in this body wanted to bring the bill forward, but opponents of the proposed modifications were able to delay any Senate consideration until after the effective date required by the Rules Enabling Act. Because of our responsibility to review these rules, I want to bring one of the modifications back before the Senate. This modification concerns rule 30 of the Federal Rules of Civil Procedure.

From 1970 to December 1993, rule 30 permitted depositions to be recorded by non stenographic means, but only upon court order or with the written stipulation of the parties. The change in rule 30(b) altered that procedure by eliminating the requirement of a court order or stipulation and affording each party the right to arrange for recording of a deposition by non stenographic means.

Testimony at hearings conducted by the Judiciary Subcommittee on Courts and Administrative Practice in the 103d Congress raised concerns about the reliability and durability of video or audio tape alternatives to stenographic depositions. There was also information submitted suggesting that technological improvements in stenographic recording will make the stenographic method more cost-effective for years to come.

Depositions recorded stenographically have historically provided an accurate record of testimony which can conveniently be used by both trial and appellate courts. In addition, the certification of accuracy by an independent and unbiased third party is a significant component of trustworthy depositions. Studies undertaken by the Justice Research Institute confirm the fact that a stenographic court reporter is the qualitative standard for accuracy and clarity in depositions, and a court reporter using a computer—aided transportation is the least costly method of making a deposition record.

Even now, 5 years after the rule change, court reporters associations contend that mechanical recording frequently produces unintelligible passages and is laden with other dangers such as the inability to identify speakers. Rather than becoming the way of the future, electronic recording has been faulted by judges and attorneys as an error-prone system where tapes are often untranscribable because of inaudible portions, machines frequently fail, and recorders pick up every background sound, including papers rustling, coughing, and attorney sidebar conferences which then must be edited out before use by jurors or for the appeal process.

The case was never made for unilateral decisions on the use of nonstenographic recording of depositions. The legislation that I am introducing today with my colleague from Illinois, Senator DURBIN, would restore the rule that nonstenographic recording of depositions is authorized only when permitted by court order or stipulation of both parties.

This version of the rule worked very effectively for over 23 years. In fact, I am not aware of any instance where an attorney or party was denied the ability to use an alternative method when it was requested. However, the most important factor was that the prior incarnation of the Rules recognized the potential for errors from methods other than stenographic means and thus established the safeguards of stipulation or court order. In fact, the notes to accompany the 1970 version of the Civil Rules said it best:

> In order to facilitate less expensive procedures, provision is made for the recording of testimony by other than stenographic means—e.g., by mechanical, electronic, or photographic means. Because these methods give rise to problems of accuracy and trustworthiness, the party taking the deposition is required to apply for a court order. The order is to specify how the testimony is to be recorded, preserved, and filed, and it may contain whatever additional safeguards the court deems necessary.
>
> (Notes to accompany the 1970 Revisions to the Federal Rules of Civil Procedure)

Mr. President, this legislation gives us the chance to do what we should have done 4 years ago and restore the rule in order to maintain the high standard of justice for which our legal system is known.

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. 1352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraphs (2) and (3) of Rule 30(b) of the Federal Rules of Civil Procedure are amended to read as follows:

''(2) Unless the court upon motion orders, or the parties stipulate in writing, the deposition shall be recorded by stenographic means. The party taking the deposition shall bear the cost of the transcription. Any party may arrange for a transcription to be made from the recording of a deposition taken by nonstenographic means.

''(3) With prior notice to the deponent and other parties, any party may use another method to record the deponent's testimony in addition to the method used pursuant to paragraph (2). The additional record or transcript shall be made at that party's expense unless the court otherwise orders.''.

By Mr. MCCAIN (for himself, Mr. CAMPBELL, Mr. INOUYE, Mr. DASCHLE, and Mr. DORGAN):

S. 1354. A bill to amend the Communications Act of 1934 to provide for the designation of common carriers not subject to the jurisdiction of a State commission as eligible telecommunications carriers; to the Committee on Commerce, Science, and Transportation.

THE COMMUNICATIONS ACT OF 1934 TECHNICAL AMENDMENT ACT OF 1997

Mr. MCCAIN. Mr. President, I rise to introduce an amendment to the Communications Act of 1934 on behalf of Senators DORGAN, DASCHLE, INOUYE, CAMPBELL, and myself. This amendment enables the Federal Communications Commission [FCC] to designate common carriers not under the jurisdiction of a State commission as eligible recipients of universal service support.

Universal Service provides intercarrier support for the provision of telecommunications services in rural and high-cost areas throughout the United States. However, section 254(e) of the 1996 act states that only an eligible carrier designated under section 214(e) of the Communications Act shall be eligible to receive specific federal universal support after the FCC issues regulations implementing the new universal service provisions into the law. Section 214(e) does not account for the fact that State commissions in a few states have no jurisdiction over certain carriers. Typically, States also have no jurisdiction over tribally owned companies which may or may not be regulated by a tribal authority that is not a State commission per se.

The failure to account for these situations means that carriers not subject to the jurisdiction of a State commission have no way of becoming an eligible carrier that can receive universal service support. This would be the case whether these carriers are traditional local exchange carriers that provide services otherwise included in the program, have previously obtained universal service support, or will likely be the carrier that continues to be the carrier of last resort for customers in the area.

Mr. President. This simple amendment will address this oversight within the 1996 act, and prevent the unintentional consequences it will have on common carriers which Congress intended to be covered under the umbrella of universal service support.

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 1355. A bill to designate the U.S. courthouse located in New Haven, CT, as the ''Richard C. Lee United States Courthouse''; to the Committee on Environment and Public Works.

THE RICHARD C. LEE FEDERAL COURTHOUSE ACT OF 1997

Mr. LIEBERMAN. Mr. President, I am pleased and honored today to introduce legislation with my colleague Senator DODD to name the Federal courthouse in New Haven, CT, after our dear friend and the former eight-term mayor of New Haven, Richard C. Lee. Congresswoman ROSA DELAURO is introducing the same proposal in the House of Representatives.

If it may be said that Federal buildings should help reflect the very best of the principles, purposes and spirit of America, then this courthouse could have no more appropriate name above its doors than that of Mayor Lee. For Dick Lee is the quintessential American, proud, principled, hardworking, and productive. In New Haven, he shook loose entrenched bureaucracies and forged new community coalitions dedicated to rebuilding New Haven after years of neglect and blight. He became a nationally recognized urban pioneer and helped to change the landscape of the American city.

Dick Lee was born in New Haven. He loves the city and its richly diverse people. In May of last year, Mayor Lee was honored by the New Haven Colony Historical Society. During that tribute, Prof. Robert Wood of Wesleyan University drew inspiration from Mayor Lee's eloquence about his work. Dick Lee said that the core of a mayor's job was ''wiping away tears from the eyes'' of a city's people so that ''each tear becomes a star in the sky'' and not a source of daily despair. ''Filling the sky above with stars'' was his highest calling. ''The tears in the eyes of the young and the old, the hungry, the unloved, the ill-housed, the ill-clothed, and worst of all, the ignored'' were not to be tolerated.

Dick Lee was raised in a devout Irish Catholic family that was not blessed with wealth but with greater gifts: with faith, talent, and the willingness to work hard to better themselves and their community. He served for many years on the Board of Aldermen of New Haven and held a number of journalism jobs, including 10 years in public relations at Yale University. In 1949, he became the youngest man to run for mayor in New Haven's history. He lost that year by 712 votes. He lost 2 years later by only two votes. But he did not give up on himself, or the city of New Haven and was elected mayor in 1953.

Once in office, Dick Lee devoted himself with extraordinary energy and imagination to the human and physical renewal of New Haven. One of his most provocative ideas was that the greatest post-World War II problems in our cities—poverty, unemployment, and poor housing—could not be solved by the cities or States alone. The Federal Government had to become a partner in America's urban redevelopment.

Dick Lee worked tirelessly and with enormous success during the Eisenhower Administration to bring Federal programs to New Haven. As head of the Urban Committee of the Democratic National Committee in 1958, Lee authored the first versions of Model Cities and War on Poverty legislative proposals. And after his dear friend, John F. Kennedy was elected, Dick Lee exercised a large and constructive influence on the national effort to renew America's urban areas and to restore hope and opportunity to the people who lived in them.

Dick Lee also understood that just as the human face of New Haven needed reinvigoration, so did the city's physical appearance and infrastructure. For this, Dick Lee turned first to a plan by Maurice Rovital who developed a blueprint for New Haven while a member of the Yale faculty. But then he boldly invited many of America's greatest architects to design buildings for his city, making New Haven one of America's greatest architectural crossroads.

Dick Lee appointed a deputy mayor and administrator of redevelopment. From there, the real work began. That work included rebuilding downtown New Haven, salvaging the Long Wharf area, restoring Wooster Square, constructing the Knights of Columbus headquarters and the Coliseum, residential rehabilitation, rent supplements, nonprofit housing sponsors and the renewal of inner-city neighborhoods.

Mayor Lee forged new coalitions to reaffirm his city's sense of community and make it easier to get things done. His Citizens Action Commission was a unique amalgam of business, labor and civic leaders and was designed to build support for the redevelopment effort.

Robert Dahl, in his book ''Who Governs? Democracy and Power in the American City,'' wrote that Mayor Lee ''had an investment banker's willingness to take risks that held the promise of large long-run payoffs, and a labor mediator's ability to head off controversy by searching out areas for agreement by mutual understanding, compromise, negotiation, and bargaining.

He possessed a detailed knowledge of the city and its people, a formidable information gathering system, and an unceasing, full-time preoccupation with all aspects of his job. His relentless drive to achieve his goals meant that he could be tough and ruthless. But toughness was not his political style, for his overriding strategy was to rely on persuasion rather than threats.

Robert Leeney, former editor of the New Haven Register and a wise and eloquent observer of the local scene wrote:

New Haven and the problems of New Haveners have shaped Dick Lee's life. When the Senate seat, later filled by Thomas Dodd, hung like a plum within his grasp he wouldn't reach for it because the Church Street project was badly stalled and home needs took first priority in his public vision and on his personal horizons. His simple belief in—and his unshakeable dedication to—this city and its people started young and they have never ended. . .. He grew up to citizenhood with a classic, almost a Greek, sense of the city-state's call upon his talents and of its shaping effect upon his life and the lives of his neighbors. . ..

Mr. President, law is the way we choose to express our values as a community, our aspirations for ourselves and our neighbors. In that fundamental sense, naming the grand federal courthouse in New Haven which sits proudly on the old New Haven Green and next to city hall is an honor which Mayor Dick Lee thoroughly deserves. In his public service, he worked tirelessly to express the best values of his community and to help its people realize their dreams for themselves.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1355

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

SECTION 1. DESIGNATION OF RICHARD C. LEE UNITED STATES COURTHOUSE.

The United States courthouse located in New Haven, Connecticut, shall be known and designated as the ''Richard C. Lee United States Courthouse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the ''Richard C. Lee United States Courthouse''.

Mr. DODD. Mr. President. I am pleased to join with my fellow colleague from Connecticut, Senator LIEBERMAN, in introducing this bill which would designate the U.S. courthouse in New Haven, CT, as the ''Richard C. Lee United States Courthouse.'' I strongly believe that this designation would be a fitting tribute to Dick Lee's service and commitment to the city of New Haven, and I commend my good friend and colleague for putting this legislation forward.

A self-educated man who was legendary for his charm, Dick Lee is widely considered as one of the most forceful, most capable, and most dedicated mayors that the State of Connecticut an this country has ever known.

After losing two bids to become mayor, Dick Lee went on to win eight straight elections, serving as the mayor of New Haven from 1954 to 1969. His first two elections were very close, losing by only two votes in his 1951. Dick Lee learned from these narrow defeats, and they helped to shape his political career. He realized that every single person mattered, and he always did everything in his power to help his constituents, particularly those who were in need. He was always eager to tackle, rather than turn away from constituents' problems. He also exhibited great foresight in anticipating the problems that awaited New Haven and other cities, and he offered imaginative and progressive solutions to these concerns.

The focus of his ideas was to preserve and rehabilitate neighborhoods, and to engage in urban planning done with the community, not for it. He supervised the clearance of slums in New Haven and revitalized once decaying areas by rebuilding businesses and homes. He oversaw the building of two new public high schools and a dozen elementary schools. To ensure that residents would have a greater investment in their communities, he pushed for the building of housing that low-income families could buy rather than rent. And Hew Haven was also the first major U.S. city to create its own antipoverty program.

Many viewed Dick Lee's views as ahead of his time, and he quickly established a national reputation as a visionary of urban revitalization. On the strength of this reputation, Mr. Lee became a respected advisor to Presidents Kennedy and Johnson on matters of urban policy.

Mr. Lee was approached about a possible cabinet position, but rather than lobby for a political appointment for himself, he used his political capital to help secure Federal funding for his urban redevelopment initiatives back home in New Haven. At one point during Dick Lee's tenure, New Haven was receiving more Federal money per capita than any other city in the country.

Dick Lee still lives in New Haven in the same house that he purchased more than 30 years ago. In light of all the work that Dick Lee did for the people of his home town and his effective advocacy on behalf of all of America's cities, I think that it is only appropriate that one of New Haven's Federal buildings should bear his name. Therefore I urge all of my colleagues to support this bill to designate the Federal courthouse in New Haven as the ''Richard C. Lee United States Courthouse.''

By Mr. FAIRCLOTH:

S. 1356. A bill to amend the Communications Act of 1934 to prohibit Internet service providers from providing accounts to sexually violent predators; to the Committee on Commerce, Science, and Transportation.

THE INTERNET SERVICE PROVIDERS ACCOUNT PROHIBITION ACT OF 1997

Mr. FAIRCLOTH. Mr. President, in the past few years, I have been shocked by the number of crimes I have read about that are connected to the Internet.

This was a problem that did not even exist just a few years ago, but now it has become very prevalent.

What is happening is that sex offenders and pedophiles are using the Internet to recruit children.

I think I have a solution that can help this situation.

Today, I am introducing legislation that would prevent a convicted sex offender from having an Internet account. Under my bill, the on-line service provider would be barred from providing an account to anyone who is a sexually violent predator or who has registered under Megan's law.

I do not think this would be difficult to enforce, because convicted sex offenders are already on a data base.

A background check on that data base could keep them offline.

Mr. President, we all know that proper parental supervision is the best defense against this type of crime, but I am finding that some parents aren't as computer literate as their children and it is almost impossible to watch children every minute of every day.

In my view, it is time to pull the plug on sex offenders and take them offline.

Mr. President, as I said, this problem has been growing year by year. It has grown to the point where the FBI has set up a special task force to track down computer sex offenders.

In 1993, the FBI formed a task force known as Innocent Images.

It was created after a 10-year-old boy was declared missing in Maryland. Unfortunately, he has never been found. But the FBI did come across two neighbors who have an elaborate computer network—where they were recruiting young victims over the Internet. The key suspect is in jail, but has never told the police anything about the disappearance.

This is what one agent said about the program:

Generally we would come across people trying to trade (illicit pictures) within five to ten minutes . . . It was like coming across a person at every street corner trying to sell you crack.

Just 2 weeks ago, the Washington Post reported on a man that had contacted over 100 underage girls via a computer. He was arrested and received 2 years in jail. I have no doubt, he will be back on the Internet when he gets out of jail. My bill is designed to stop him again.

The task force has conducted over 330 searches that have resulted in 200 indictments and 150 convictions. Another 135 have been arrested.

If we do not stop sex offenders on the Internet, I believe the number of crimes will grow.

Tragically, just a few weeks ago, an 11-year-old boy was murdered in New Jersey by a teenager who himself had been molested by a man he met on the Internet. The man was a twice convicted sex offender.

We have got to stop this activity and stop it now.

Mr. President, there will be critics who call this unconstitutional. They can certainly tie themselves up in knots about the legalities, but my

main concern is for the safety of our children.

I think we have ample precedent for doing something like this. First, we have Megan's Law that requires registration of sex offenders. Second, the Supreme Court, in Kansas versus Hendricks, upheld a State statute that kept a sexual predator committed in a State mental institution, after his criminal sentence had run. I think it is clear that for sexual predators—they do not enjoy the rights that all of us enjoy. There is a difference.

More simply put, is this any different than denying a felon the right to own a gun. Is it different than barring a habitual drunk driver from having a driver's license?

The Internet is the new weapon of the sexual predator. It is their key to invading our homes.

We have to send a clear message that the Internet will not become the favored tool of the pedophile. Instead of roaming the streets, the sex offenders of the 1990's are roaming chat rooms and the Internet looking for victims.

This legislation will put a stop to that.

I hope that we can have hearings on this bill and that we can consider it next session.

By Mr. DORGAN:

S. 1357. A bill to require the States to bear the responsibility for the consequences of releasing violent criminals from custody before the expiration of the full term of imprisonment to which they are sentenced.

THE FAIRNESS AND INCARCERATION RESPONSIBILITY ACT

Mr. DORGAN. Mr. President, I am going to introduce legislation today dealing with violent offenders. I want to preface it by saying that all of us in this country understand that crime rates are coming down some, and we are appreciative of that. But violent crime is still far too prevalent.

In North Dakota a couple of weeks ago, we had a young woman named Julienne Schultz who stopped at a rest area on a quiet rural road and a quiet part of our State. She ran into a man in the rest area who abducted her, slashed her throat, and left her for dead. Well, I am pleased to tell you today that Julienne did not die, and she is recovering.

The horror of that attack is a horror that is repeated all over this country, committed by violent criminals who never should have been out of jail early. That attack was perpetrated by a fellow who came from Washington State. He was, I guess, driving through North Dakota. He is alleged to have committed a couple of murders in Washington State before he left Washington a couple of months before. He ran into Julienne Schultz, this wonderful woman from North Dakota, who was coming back from a meeting with the League of Cities and stopped at a rest area only to have her throat slashed by this violent criminal. He then took his own life when stopped at a police blockade later that night. This fellow had been in prison in the State of Washington for prior violent crimes and was let out of prison early.

It goes on all across this country. I think this country ought to decide that, if you commit a violent act, you are going to go to prison and the prison cell is going to be your address until the end of your sentence—no early out, no nothing. If you are convicted of a violent offense, you go to prison and stay there. Your prison cell is your address.

I will just give you a couple more examples.

Charles Miller is from West Virginia, 28 years old. A couple of years ago he was convicted of the violent rape of a young child and was sentenced to serve 5 years in prison. He was up for parole three times while he was in prison. His third time —May of this year—after serving half of the sentence, he was released on gain time, and 43 days later he was charged with sexually assaulting a 12-year-old girl. The prosecutor said, ''Unfortunately, in the State the way it is now, everybody gets out early. We have people guilty of murder getting out on gain time do it again. We ought to abolish gain time.''

I agree with that prosecutor.

Miami, FL, a fellow named Gainer, age 23, shot a fellow named Robert Mays, 20 years old—got into a dispute about drugs. Sentenced to 5 years in State prison for manslaughter, served 1 year and 1 month, released because he had accumulated 600 days of what is called gain time for working in a prison camp. Six months after he was released he was charged with first-degree murder once again.

Mr. Ball, 42, sentenced to 30 years of hard labor in Louisiana, cited for 102 disciplinary infractions in prison, the last infraction being 3 months before he was released 16 years before the end of his sentence for good behavior. He was rearrested on first-degree murder and armed robbery charges.

Budweiser delivery man Bernard Scorconi was 45 years old, murdered by Mr. Ball when he tried to stop him from robbing a local bar. Ball was released 16 years earlier than the end of his sentence.

It happens all across this country, every day in every way. Violent people are put back on the streets before the end of their sentence.

My mother was killed by someone who committed a manslaughter act, and he was let out early. Everybody is let out early. Commit a violent act, you get let out early. All you have to do is go to prison, accumulate good time. In some States you get 30 days off for every 30 days served.

I am proposing today a very simple piece of legislation. Let us tell those States who let violent people out of prison early, that you are going to be responsible for the actions of that offender up until what should have been the completion date of that offender's sentence. If a State or local government decides it is appropriate to allow violent offenders to be let out before the end of their term because they have accumulated good time, gain time, or parole. If violent offenders serve less than their entire sentence, then during that period of time when they should have been in jail, if they commit another violent crime, I want the states to be held responsible—no more immunity.

I say to local governments, be responsible. You want to let violent people out on the street early, be responsible for it. Waive your immunity. Let people sue you to bring you to account for what you have done.

I am proposing that the grants we have in the 1994 crime bill dealing with truth-in-sentencing and violent-offender incarceration be available to those States that decide they will waive immunity and be responsible for the acts these offenders on early release commit.

I wonder how many people in this Chamber know that there are more than 4,000 people now in prison for committing a murder that they committed while they were out early for a previous violent crime. How would you like to be one of the families of the 4,000 or more people who are murdered who understand their loved one was murdered because someone else was let out early from prison. You know it doesn't take Dick Tracy to figure out who is going to commit the next violent act. It is somebody who has committed a previous violent act.

I just suggest that there are those who say prisons are overcrowded and so the prison overcrowding forces them to release people early. Senator JOHN GLENN and I have talked for years about military housing and its possible use for incarcerating non-violent offenders. Why couldn't corrections officials utilize this kind of low-cost housing for nonviolent offenders and freeup maximum security space for violent offenders.

You can probably incarcerate nonviolent offenders for a fraction of the cost of what it takes to build a prison. Fifty percent of the 1.5 million people now in prison in this country are nonviolent. We can incarcerate them for a fraction of the cost of what we now spend to put them in prisons.

We could open 100,000, 200,000, or 300,000 prison cells and say to violent offenders, that is your address until the end of your sentence. Understand that. Your address is your prison cell, if you commit a violent crime, until the end of your sentence. We ought to provide a creative way for states to facilitate that.

Even with the best of intentions, in this Chamber about 4 years ago we decided that the most violent offenders have to serve 85 percent of their time. Let's let them out only 15 percent early, stated another way. In fact, in most States those who commit the most violent offenses and therefore get

the longest sentences get the most generous amount of good time.

I know people will disagree with me about this. I respect that disagreement. I say this. If you are the family of a young boy, 13 years old, named Hall who was murdered just miles from here, or of a young attorney in her early 20's named Bettina Pruckmayer, who was murdered just miles from here. Both of these young people murdered by individuals who had been in prison for previous murders but let out early because of the sentence system. Is it fine for us to let them back on the street? If they do not have good time, if they are hard to manage in prison, think about the violence done to others who are murdered and others who are going to die while they are on street.

I am going to introduce this piece of legislation today. I hope in the next year or so before the Congress completes its work that we might be able to decide what we need to do about violent offenders. We can keep violent offenders off the streets to the end of their sentence, and we can protect people like Julienne Schultz, who, fortunately, is going to be all right.

But this innocent young woman who was driving back from a meeting stopped at a rest stop in a quiet rural area, had her throat slashed and was close to being killed by a fellow who should never have been driving through North Dakota, by a fellow who was let out by authorities in another State which said, ''We can't afford to keep you in prison,'' apparently, and, ''We don't have the time to keep you in prison anymore.'' Well, we had better make time. We had better find the resources to keep these kind of folks in prison to the end of their term in order to help prevent further carnage and the kind of things that are happening to innocent people all across this country.

Mr. President, I ask that the bill be pointed in the RECORD.

Mr. President, you have been very generous in the time today.

I yield the time. I yield the floor.

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

S. 1357

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 ''Fairness and Incarceration Responsibility (FAIR) Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) violent criminals often serve only a portion of the terms of imprisonment to which they are sentenced;

(2) a significant proportion of the most serious crimes of violence committed in the United States are committed by criminals who have been released early from a term of imprisonment to which they were sentenced for a prior conviction for a crime of violence;

(3) violent criminals who are released before the expiration of the term of imprisonment to which they were sentenced often travel to other States to commit subsequent crimes of violence;

(4) crimes of violence and the threat of crimes of violence committed by violent criminals who are released from prison before the expiration of the term of imprisonment to which they were sentenced affect tourism, economic development, use of the interstate highway system, federally owned or supported facilities, and other commercial activities of individuals; and

(5) the policies of one State regarding the early release of criminals sentenced in that State for a crime of violence often affect the citizens of other States, who can influence those policies only through Federal law.

(b) PURPOSE.—The purpose of this Act is to require States to bear the responsibility for the consequences of releasing violent criminals from custody before the expiration of the full term of imprisonment to which they are sentenced.

SEC. 3. ELIGIBILITY FOR VIOLENT OFFENDER INCARCERATION GRANTS.

Section 20103(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13703(a)) is amended—

(1) by striking ''the State has implemented'' and inserting the following: ''the State—

''(1) has implemented'';

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(2) has enacted and implemented a State law providing that a victim (or in the case of a homicide, the family of the victim) of a crime of violence (as defined in section 16 of title 18, United States Code) shall have a Federal cause of action in any district court of the United States against the State for the recovery of actual (not punitive) damages (direct and indirect) resulting from the crime of violence, if the individual convicted of committing the crime of violence—

''(A) had previously been convicted by the State of a crime of violence committed on a different occasion than the crime of violence at issue;

''(B) was released before serving the full term of imprisonment to which the individual was sentenced for that offense; and

''(C) committed the subsequent crime of violence at issue before the original term of imprisonment described in subparagraph (B) would have expired.''.

SEC. 4. ELIGIBILITY FOR TRUTH-IN-SENTENCING INCENTIVE GRANTS.

Section 20104 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13704) is amended—

(1) by striking ''85 percent'' each place that term appears and inserting ''100 percent''; and

(2) by adding at the end the following:

''(c) WAIVER OF SOVEREIGN IMMUNITY.—Notwithstanding subsection (a), in addition to the requirements of that subsection, to be eligible to receive a grant award under this section, each application submitted under subsection (a) shall demonstrate that the State has enacted and implemented, a State law providing that a victim (or in the case of a homicide, the family of the victim) of a crime of violence (as defined in section 16 of title 18, United States Code) shall have a Federal cause of action in any district court of the United States against the State for the recovery of actual (not punitive) damages (direct and indirect) resulting from the crime of violence, if the individual convicted of committing the crime of violence—

''(1) had previously been convicted by the State of a crime of violence committed on a different occasion than the crime of violence at issue;

''(2) was released before serving the full term of imprisonment to which the individual was sentenced for that offense; and

''(3) committed the subsequent crime of violence at issue before the original term of imprisonment described in paragraph (2) would have expired.''.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 3 years after the date of enactment of this Act.

ADDITIONAL COSPONSORS

S. 496

At the request of Mr. CHAFEE, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 496, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 1084

At the request of Mr. INHOFE, the names of the Senator from South Carolina [Mr. THURMOND], and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 1084, a bill to establish a research and monitoring program for the national ambient air quality standards for ozone and particulate matter and to reinstate the original standards under the Clean Air Act, and for other purposes.

S. 1096

At the request of Mr. KERREY, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1124

At the request of Mr. KERRY, the names of the Senator from Ohio [Mr. DEWINE], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 1124, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 1189

At the request of Mr. SMITH, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1189, a bill to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes.

S. 1243

At the request of Mr. KERREY, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 1243, a bill to amend title 23, United States Code, to enhance safety on 2-lane rural highways.

S. 1251

At the request of Mr. D'AMATO, the names of the Senator from Alabama [Mr. SESSIONS], and the Senator from New Hampshire [Mr. GREGG] were added as cosponsors of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the names of the Senator from Alabama [Mr. SESSIONS], the Senator from New Hampshire [Mr. GREGG], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1311

At the request of Mr. LIEBERMAN, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 1311, a bill to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles.

At the request of Mr. LOTT, the names of the Senator from Washington [Mr. GORTON], the Senator from Alaska [Mr. STEVENS], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 1311, supra.

S. 1314

At the request of Mrs. HUTCHISON, the names of the Senator from New York [Mr. D'AMATO], the Senator from Montana [Mr. BURNS], and the Senator from Arizona [Mr. KYL] were added as cosponsors of S. 1314, a bill to amend the Internal Revenue Code of 1986 to provide that married couples may file a combined return under which each spouse is taxed using the rates applicable to unmarried individuals.

S. 1319

At the request of Mr. BYRD, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 1319, a bill to repeal the Line Item Veto Act of 1996.

S. 1334

At the request of Mr. BOND, the names of the Senator from Georgia [Mr. COVERDELL], the Senator from Montana [Mr. BURNS], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors 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 availablity of adequate health care for Medicare-eligible beneficiaries under the military health care system.

SENATE RESOLUTION 116

At the request of Mr. LEVIN, the names of the Senator from Rhode Island [Mr. REED] and the Senator from South Dakota [Mr. JOHNSON] were added as cosponsors of Senate Resolution 116, a resolution designating November 15, 1997, and November 15, 1998, as ''America Recycles Day''.

SENATE RESOLUTION 141

At the request of Mrs. MURRAY, the names of the Senator from Oregon [Mr. WYDEN], the Senator from Ohio [Mr. DEWINE], and the Senator from Washington [Mr. GORTON] were added as cosponsors of Senate Resolution 141, a resolution expressing the sense of the Senate regarding National Concern About Young People and Gun Violence Day.

AMENDMENT NO. 1397

At the request of Mr. BYRD the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of amendment No. 1397 intended to be proposed to S. 1173, a bill to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

AMENDMENT NO. 1520

At the request of Mr. KERREY the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of amendment No. 1520 intended to be proposed to S. 1173, a bill to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

SENATE CONCURRENT RESOLUTION 59—RELATIVE TO THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

Mr. D'AMATO submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 59

Whereas the Republic of Turkey, because of its position at the crossroads of Europe, the Caucasus, Central Asia, and the Middle East, is well positioned to play a leading role in shaping developments in Europe and beyond;

Whereas the Republic of Turkey has been a longstanding member of numerous international organizations, including the Council of Europe (1949), the North Atlantic Treaty Organization (1952), and the Organization for Security and Cooperation in Europe (1975);

Whereas Turkey's President, Suleyman Demirel, was an original signer of the 1975 Helsinki Final Act of the Conference on Security and Cooperation in Europe;

Whereas the Republic of Turkey proposed in late 1996 that Istanbul serve as the venue for the next OSCE summit, a prestigious gathering of the heads of state or government of countries in Europe, Central Asia, and North America, including the United States;

Whereas a decision on the venue of the next OSCE summit will require the consensus of all OSCE participating states, including the United States;

Whereas the OSCE participating states, including Turkey, have declared their steadfast commitment to democracy based on human rights and fundamental freedoms, the protection and promotion of which is the first responsibility of government;

Whereas the development of genuine democracy in Turkey is undermined by ongoing violations of international humanitarian law as well as other human rights obligations and commitments, including provisions of the Helsinki Final Act and other OSCE documents, by which Turkey is bound;

Whereas the Department of State has found that serious human rights problems persist in Turkey and that human rights abuses have not been limited to the southeast, where Turkey has engaged in an armed conflict with the terrorist Kurdistan Workers Party (PKK) for over a decade;

Whereas flagrant violations of OSCE standards and norms continue and the problems raised by the United States Delegation at the November 1996 OSCE Review Meeting in Vienna persist;

Whereas expert witnesses at a 1997 briefing of the Commission on Security and Cooperation in Europe (in this concurrent resolution referred to as the ''Helsinki Commission'') underscored the continued, well-documented, and widespread use of torture by Turkish security forces and the failure of the Government of Turkey to take determined action to correct such gross violations of OSCE provisions and international humanitarian law;

Whereas the Government of Turkey continues to use broadly the Anti-Terror Law and Article 312 of the Criminal Code against writers, journalists, publishers, politicians, musicians, and students;

Whereas the Committee To Protect Journalists has concluded that more journalists are currently jailed in Turkey than in any other country in the world;

Whereas the Government of Turkey has pursued an aggressive campaign of harassment of nongovernmental organizations, including the Human Rights Foundation of Turkey; branch offices of the Human Rights Association in Diyarakir, Malatya, Izmir, Konya, and Urfa have been raided and closed; and Turkish authorities continue to persecute the members of nongovernmental organizations who attempt to assist the victims of torture;

Whereas four former parliamentarians from the now banned Kurdish-based Democracy Party (DEP) Leyla Zana, Hatip Dicle, Orhan Dogan, and Selim Sadak remain imprisoned at Ankara's Ulucanlar Prison and among the actions cited in Zana's indictment was her 1993 appearance before the Helsinki Commission in Washington, D.C.;

Whereas the Lawyers Committee for Human Rights has expressed concern over the case of human rights lawyer Hasan Doğan, a member of the People's Democracy Party (HADEP), who like many members of the party, has been subject to detention and prosecution;

Whereas many human rights abuses have been committed against Kurds who assert their Kurdish identity, and Kurdish institutions, such as the Kurdish Cultural and Research Foundation, have been targeted for closure;

Whereas the Ecumenical Patriarchate has repeatedly requested permission to reopen the Orthodox seminary on the island of Halki closed by the Turkish authorities since the 1970s despite Turkey's OSCE commitment to ''allow the training of religious personnel in appropriate institutions'';

Whereas members of other minority religions or beliefs, including Armenian and Syrian Orthodox believers, as well as Roman Catholics, Armenian, Chaldean, Greek and Syrian Catholics, and Protestants have faced various forms of discrimination and harassment;

Whereas the closing of the border with Armenia by Turkey in 1993 remains an obstacle to the development of mutual understanding and confidence, and friendly and good-neighborly relations between those OSCE participating states;

Whereas the Republic of Turkey has repeatedly rebuffed offers by the Chair-in-Office of the OSCE to dispatch a personal representative to Turkey for purposes of assessing developments in that country;

Whereas, despite the fact that a number of Turkish civilian authorities remain publicly committed to the establishment of rule of law and to respect for human rights, torture, excessive use of force, and other serious

human rights abuses by the security forces continue; and

Whereas the Government of Turkey has failed to meaningfully address these and other human rights concerns since it first proposed to host the next OSCE summit and thereby has squandered this opportunity to demonstrate its determination to improve implementation of Turkey's OSCE commitments: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the privilege and prestige of hosting a summit of the heads of state or government of the Organization for Security and Cooperation in Europe (OSCE) should be reserved for participating states that have demonstrated in word and in deed steadfast support for Helsinki principles and standards, particularly respect for human rights;

(2) the United States should refuse to give consensus to any proposal that Turkey serve as the venue for a summit meeting of the heads of state or government of OSCE countries until the Government of Turkey has demonstrably improved implementation of its freely undertaken OSCE commitments, including action to address those human rights concerns enumerated in the preamble of this resolution;

(3) the United States should encourage the development of genuine democracy in the Republic of Turkey based on protection of human rights and fundamental freedoms; and

(4) the President of the United States should report to Congress not later than April 15, 1998, on any improvement in the actual human rights record in Turkey, including improvements in that country's implementation of provisions of the Helsinki Final Act and other OSCE documents.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President of the United States.

Mr. D'AMATO. Mr. President, I rise to submit a concurrent resolution on the human rights situation in Turkey. This resolution is prompted by that country's desire to host the next summit meeting of the heads of state or government of the Organization for Security and Cooperation in Europe [OSCE]. This summit meeting is scheduled to take place in 1998. The issue is which country will host this most important OSCE gathering.

Last November, the Republic of Turkey—an original OSCE participating state—first proposed Istanbul as the site for the next OSCE summit. At that time, I wrote to then-Secretary of State Christopher, together with Commission Co-Chairman Christopher Smith, urging that the United States reject this proposal based on Turkey's dismal human rights record. I also wrote to Secretary Albright in July to reiterate my concerns regarding the state of human rights in Turkey and Ankara's failure to improve its implementation of OSCE commitments.

Ankara has squandered the past year, failing to meaningfully address a series of longstanding human rights concerns. Regrettably, there has been no meaningful improvement in Turkey's implementation of its OSCE human rights commitments in the 11 months since our original letter to the State Department. Despite a number of changes in Turkish law, the fact of the matter is that even these modest proposals have not translated into improved human rights in Turkey.

Mr. President, my resolution does not call for outright rejection of the Turkish proposal. Rather, the resolution calls for the United States to refuse consensus to such a plan until the Government of Turkey had demonstrably improved implementation of its freely undertaken OSCE commitments, including action to address those human rights concerns I will describe in more detail later in my remarks. Under OSCE rules, decisions require that all participating states, including the United States, give their consensus before a proposal can be adopted. The resolution we introduce today calls upon the President to report to the Congress by April 15, 1998, on any improvement to Turkey's actual human rights performance.

Expert witnesses at a Commission briefing earlier this year underscored the continued, well-documented, and widespread use of torture by Turkish security forces and the failure of the Government of Turkey to take determined action to correct such gross violations of OSCE provisions and international humanitarian law. Even the much heralded reduction of periods for the detention of those accused of certain crimes has failed to deter the use of torture. The fact is that this change on paper is commonly circumvented by the authorities. As one United States official in Turkey observed in discussion with Commission staff, a person will be held in incommunicado for days, then the prisoner's name will be postdated for purposes of official police logs giving the appearance that the person had been held within the period provided for under the revised law. Turkish authorities also continue to persecute those who attempt to assist the victims of torture, as in the case of Dr. Tufan Köse.

Despite revisions in the Anti-Terror Law, its provisions continue to be broadly used against writers, journalists, publishers, politicians, musicians, and students. Increasingly, prosecutors have applied article 312 of the Criminal Code, which forbids ''incitement to racial or ethnic enmity.'' Government agents continue to harass human rights monitors. According to the Committee to Protect Journalists, at least 47 Turkish journalists are in jail in Turkey today—more than in any other country in the world.

Many human rights abuses have been committed against Kurds who assert their Kurdish identity. The Kurdish Cultural and Research Foundation offices in Istanbul were closed by police in June to prevent the teaching of Kurdish language classes. In addition, four former parliamentarians from the now banned Kurdish-based Democracy Party [DEP]: Leyla Zana, Hatip Dicle, Orhan Doğan, and Selim Sadak, who have completed three years of their 15-year sentences, remain imprisoned at Ankara's Ulucanlar Prison. Among the actions cited in Leyla Zana's indictment was her 1993 appearance before the U.S. Commission on Security and Cooperation in Europe here in Washington, DC. The Lawyers Committee for Human Rights has expressed concern over the case of human rights lawyer Hasan Doğan, a member of the People's Democracy Party [HADEP], who, like many members of the party, has been subject to detention and prosecution.

The Government of Turkey has similarly pursued an aggressive campaign of harassment of nongovernmental organizations, including the Human Rights Foundation of Turkey and the Human Rights Association. An Association forum on capital punishment was banned in early May as was a peace conference sponsored by international and Turkish NGO's. Human Rights Association branch offices in Diyarbakir, Malatya, Izmir, Konya, and Urfa have been raided and closed.

Mr. President, last week the Congress honored His All Holiness Bartholomew, the leader of Orthodox believers worldwide. The Ecumenical Patriarchate, located in Istanbul—the city proposed by Turkey as the venue for the next OSCE summit—has experienced many difficulties. The Patriarchate has repeatedly requested permission to reopen the Orthodox seminary on the island of Halki closed by the Turkish authorities since the 1970's despite Turkey's OSCE commitment to ''allow the training of religious personnel in appropriate institutions.''

As the State Department's own Country Report on Human Rights Practices for 1996 concluded, Turkey ''was unable to sustain improvements made in 1995 and, as a result, its record was uneven in 1996 and deteriorated in some respects.'' While Turkish civilian authorities remain publicly committed to the establishment of rule of law state and respect for human rights, torture, excessive use of force, and other serious human rights abuses by the security forces continue. As our resolution points out, the United States should encourage the development of genuine democracy in the Republic of Turkey based on protection of human rights and fundamental freedoms.

Mr. President, it is most unfortunate that Turkey's leaders, including President Demirel—who originally signed the 1975 Helsinki Final Act on behalf of Turkey—have not been able to effectively address these and other longstanding human rights concerns.

The privilege and prestige of hosting such an OSCE event should be reserved for participating states that have demonstrated their support for Helsinki principles and standards—particularly respect for human rights—in both word and in deed. Turkey should not be allowed to serve as host of such a meeting until and unless that country's dismal human rights record has improved.

While some may argue that allowing Turkey to host an OSCE summit meeting might provided political impetus

for positive change, we are not convinced, particularly in light of the failure of the Turkish Government to meaningfully improve the human rights situation in the months since it offered to host the next OSCE summit. We note that several high-level conferences have been held in Turkey without any appreciable impact on that country's human rights policies or practices.

Mr. President, promises of improved human rights alone should not suffice. Turkey's desire to host an OSCE summit must be matched by concrete steps to improve its dismal human rights record.

I ask unanimous consent that the two letters I mentioned earlier, to Secretary Christopher and Secretary Albright, and a copy of the State Department's August 13, 1997, reply signed by Assistant Secretary of State for Legislative Affairs, Barbara Larkin, be inserted in the RECORD.

In closing, I urge my colleagues to join in supporting this concurrent resolution and to work for its passage before the end of this first session of the 105th Congress.

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

COMMISSION ON SECURITY AND COOPERATION IN EUROPE,
Washington, DC, July 15, 1997.

Hon. MADELEINE KORBEL ALBRIGHT,
Secretary of State, Department of State, Washington, DC.

DEAR MADAM SECRETARY: We write to reiterate and further explain our steadfast opposition to Turkey as the venue for an Organization for Security and Cooperation in Europe (OSCE) summit meeting and ask the Department, which we understand shares our view, to maintain the United States' refusal to give consensus to the Turkish proposal that the next summit should be held in Istanbul. We also observe that a rigid schedule of biennial summit meetings of the OSCE Heads of State or Government appears to be unwarranted at this stage of the OSCE's development and suggest that serious consideration be given to terminating the mandate which currently requires such meetings to be held whether circumstances warrant them or not.

Last November, the Republic of Turkey—an original OSCE participating State—first proposed Istanbul as the site for the next OSCE summit. At that time, we wrote to Secretary Christopher urging that the United States reject this proposal. A decision was postponed until the Copenhagen Ministerial, scheduled for this December, and the Lisbon Document simply noted Turkey's invitation.

The United States should withhold consensus on any proposal to hold an OSCE summit in Turkey until and unless Ankara has released the imprisoned Democracy Party (DEP) parliamentarians, journalists and others detained for the non-violent expression of their views; ended the persecution of medical professionals and NGOs who provide treatment to victims of torture and expose human rights abuses; and begun to aggressively prosecute those responsible for torture, including members of the security forces.

In addition, the United States should urge the Government of Turkey to undertake additional steps aimed at improving its human rights record, including abolishing Article 8 of the Anti-Terror Law, Article 312 of the Penal Code, and other statutes which violate the principle of freedom of expression and ensuring full respect for the civil, political, and cultural rights of members of national minorities, including ethnic Kurds.

Regrettably, there has been no improvement in Turkey's implementation of OSCE human rights commitments in the eight months since our original letter to the Department. Despite a number of changes in Turkish law, the fact of the matter is that even these modest proposals have not translated into improved human rights in Turkey. Ankara's flagrant violations of OSCE standards and norms continues and the problems raised by the United States Delegation to the OSCE Review Meeting last November persist.

Madam Secretary, the privilege and prestige of hosting such an OSCE event should be reserved for participating States that have demonstrated their support for Helsinki principles and standards—particularly respect for human rights—in both word and in deed. Turkey should not be allowed to serve as host of such a meeting given that country's dismal human rights record.

While some may argue that allowing Turkey to host an OSCE summit meeting might provide political impetus for positive change, we are not convinced, particularly in light of the failure of the Turkish Government to improve the human rights situation in the eight months since it proposed to host the next OSCE summit. We note that several high-level conferences have been held in Turkey without any appreciable impact on that country's human rights policies or practices.

Promises of improved human rights alone should not suffice. Turkey's desire to host an OSCE summit must be matched by concrete steps to improve its dismal human rights record.

We appreciate your consideration of our views on this important matter and look forward to receiving your reply.

Sincerely,

CHRISTOPHER H. SMITH,
Member of Congress, Co-Chairman.
ALFONSE D'AMATO,
U.S. Senate, Chairman.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE,
Washington, DC, November 22, 1996.

Hon. WARREN CHRISTOPHER,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECERTARY: We have recently learned that the Republic of Turkey may offer Istanbul as the venue for the next summit meeting of the Heads of State or Government of the Organization of Security and Cooperation in Europe (OSCE). We write to urge that the United States reject this proposal. A decision on this important matter is extremely urgent as the OSCE Review Meeting concludes today and drafting for the Summit document will begin next week.

The privilege of hosting such a prestigious OSCE event should be reserved for participating States that have demonstrated steadfast support for Helsinki principles and standards—particularly respect for human rights—in word and in deed. The U.S. should deny consensus on Turkey's proposal to serve as host of an OSCE summit meeting because of that country's dismal human rights record.

The United States Delegation to the OSCE Review Meeting has raised a number of specific examples that illustrate Turkey's flagrant violation of OSCE human rights commitments and international humanitarian law, including the well-documented use of torture. The European Committee for the Prevention of Torture has found that incidence of torture and ill-treatment in Turkey to be ''widespread.'' The UN Committee on Torture has referred to ''systemic'' use of torture in Turkey. Earlier this week, Amnesty International released a report documenting the torture of children held in detention in Turkey.

Despite Turkey's revisions to the Anti-Terror Law, it provisions continue to be broadly used against writers, journalists, publishers, politicians, musicians, and students. Increasingly, prosecutors have applied Article 312 of the Criminal Code, which forbids ''incitement to racial or ethnic enmity'' to suppress expression of dissenting views. Government agents continue to harass human rights monitors. Many human rights abuses have been committed against Kurds who publicly or politically assert their Kurdish identity.

As the Department's own report on human rights practices in Turkey concluded, while Turkisk civilian authorities remain publicly committed to the establishment of a state of law and respect to human rights, torture, excessive use of force, and other serious human rights abuses by the security forces continue.

Regrettably, lone overdue reforms of Turkey's human rights policies and practices announced in mid-October by the Turkish Deputy Prime Minister and Foreign Minister, Mrs. Ciller, have not materialized and the prospects for genuine change in the near term appear remote.

Another key factor in our urgent call for rejection of Turkey's proposal to host an OSCE summit is Turkey's continuing illegal and forcible occupation of Cypriot territory in blatant violation of OSCE principles. A substantial force of 30,000 Turkish troops remains in Cyprus today in a clear breach of Cypriot sovereignty. In recent months, we have witnessed the worst violence against innocent civilians along the cease-fire line since the 1974 invasion, resulting in at least 5 deaths. In addition, Turkish and Turkish Cypriot authorities have failed to fully account for at least 1,614 Greek Cypriots and five Americans missing since 1974.

While some may argue that allowing Turkey to hose an OSCE summit might provide political impetus for positive change, we are not convinced, particularly in light of the fact that several high-level conferences have been held in Turkey without any appreciable impact on that country's human rights policies or practices. Allowing Turkey to host an OSCE summit based upon an inference of increased leverage to improve Turkish human rights performance, when they are in current, active violation of solemn international commitments would be wrong.

Turkey's desire to host an OSCE summit must be matched by concrete steps to improve its dismal human rights, to end its illegal occupation of Cypriot territory, and to contribute to a reduction of tensions in the eastern Mediterranean. Absent demonstrable progress in these areas, the United States should withhold consensus on any proposal to hold an OSCE summit in Turkey.

Sincerely,

ALFONSE D'AMATO,
U.S. Senator, Co-Chairman.
CHRISTOPHER H. SMITH,
Member of Congress, Chairman.

U.S. DEPARTMENT OF STATE,
Washington, DC, August 13, 1997.

Hon. CHRISTOPHER H. SMITH,
Co-Chairman, Commission on Security and Cooperation in Europe, House of Representatives.

DEAR MR. CHAIRMAN: I am responding on behalf of the Secretary of State to your July 15 letter regarding your concerns about the possible selection of Turkey as the venue for

the next summit meeting of the Organization for Security and Cooperation in Europe (OSCE).

The Department of State shares your concerns about Turkey's human rights record. All states participating in the OSCE are expected to adhere to the principles of the Helsinki Final Act and other OSCE commitments, including respect for human rights and fundamental freedoms. The U.S. Government has consistently called attention to human rights problems in Turkey and has urged improvements. It does not in any way condone Turkey's, or any other OSCE state's, failure to implement OSCE commitments.

The OSCE, however, is also a means of addressing and correcting human rights shortcomings. As you note in your letter, the issue of Turkey's human rights violations was raised at the November OSCE Review Meeting, and will likely continue to be raised at such meetings until Turkey demonstrates that it has taken concrete measures to improve its record. Holding the summit in Turkey could provide an opportunity to influence Turkey to improve its human rights record.

As you note, the Turkish government has made some effort to address problem areas, through the relaxation of restrictions on freedom of expression and the recent promulgation of legal reforms which, if fully implemented, would begin to address the torture problem. These measures are only a first step in addressing the problems that exist, but we believe they reflect the commitment of the Turkish government to address its human rights problems. We have been particularly encouraged by the positive attitude the new government, which came to power July 12, has demonstrated in dealing with human rights issues.

As you know, the fifty-four nations of the OSCE will discuss the question of a summit venue. As in all OSCE decisions, any decision will have to be arrived at through consensus, which will likely take some time to achieve. In the meantime, the Department of State welcomes your views, and will seriously consider your concerns about the OSCE summit site. I welcome your continuing input on this issue, and thank you for your thoughtful letter.

We appreciate your letter and hope this information is helpful. Please do not hesitate to contact us again if we can be of further assistance.

Sincerely,

BARBARA LARKIN,
Assistant Secretary,
Legislative Affairs.

AMENDMENTS SUBMITTED

THE EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

LOTT AMENDMENT NO. 1542

(Ordered to lie on the table.)

Mr. LOTT submitted an amendment intended to be proposed by him to the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes; as follows:

Strike all after **"1. SHORT"** and insert **"TITLE.**

This act may be cited as the ''Education Savings Act for Public and Private Schools''.

SEC. 2. MODIFICATIONS TO EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

(a) TAX-FREE EXPENDITURES FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.—

(1) IN GENERAL.—Section 530(b)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

''(2) QUALIFIED EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified education expenses' means—

''(i) qualified higher education expenses (as defined in section 529(e)(3)), and

''(ii) qualified elementary and secondary education expenses (as defined in paragraph (4)) but only with respect to amounts in the account which are attributable to contributions for any taxable year ending before January 1, 2003, and earnings on such contributions.

Such expenses shall be reduced as provided in section 25A(g)(2).

''(B) QUALIFIED STATE TUITION PROGRAMS.—Such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified State tuition program (as defined in section 529(b)) for the benefit of the beneficiary of the account.''.

(2) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—Section 530(b) of such Code is amended by adding at the end the following new paragraph:

''(4) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means tuition, fees, tutoring, special needs services, books, supplies, computer equipment (including related software and services) and other equipment, transportation, and supplementary expenses required for the enrollment or attendance of the designated beneficiary of the trust at a public, private, or religious school.

''(B) SPECIAL RULE FOR HOMESCHOOLING.—Such term shall include expenses described in subparagraph (A) required for education provided for homeschooling if the requirements of any applicable State or local law are met with respect to such education.

''(C) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (through grade 12), as determined under State law.''.

(3) CONFORMING AMENDMENTS.—Subsections (b)(1) and (d)(2) of section 530 of such Code are each amended by striking ''higher'' each place it appears in the text and heading thereof.

(b) TEMPORARY INCREASE IN MAXIMUM ANNUAL CONTRIBUTIONS.—

(1) IN GENERAL.—Section 530(b)(1)(A)(iii) of the Internal Revenue Code of 1986 is amended by striking ''$500'' and inserting ''the contribution limit for such taxable year''.

(2) CONTRIBUTION LIMIT.—Section 530(b) of such Code is amended by adding at the end the following new paragraph:

''(4) CONTRIBUTION LIMIT.—The term 'contribution limit' means $2,500 ($500 in the case of any taxable year ending after December 31, 2002).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 530(d)(4)(C) of such Code is amended by striking ''$500'' and inserting ''the contribution limit for such taxable year''.

(B) Section 4973(e)(1)(A) of such Code is amended by striking ''$500'' and inserting ''the contribution limit (as defined in section 530(b)(4)) for such taxable year''.

(c) WAIVER OF AGE LIMITATIONS FOR CHILDREN WITH SPECIAL NEEDS.—Paragraph (1) of section 530(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following flush sentence: ''The age limitations in the preceding sentence shall not apply to any designated beneficiary with special needs (as determined under regulations prescribed by the Secretary).''.

(d) CORPORATIONS PERMITTED TO CONTRIBUTE TO ACCOUNTS.—Paragraph (1) of section 530(c) of the Internal Revenue Code of 1986 is amended by striking ''The maximum amount which a contributor'' and inserting ''In the case of a contributor who is an individual, the maximum amount the contributor''.

(e) EFFECTIVE DATE; REFERENCES.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 213 of the Taxpayer Relief Act of 1997.

(2) REFERENCES.—Any reference in this section to any section of the Internal Revenue Code of 1986 shall be a reference to such section as added by the Taxpayer Relief Act of 1997.

SEC. 8. OVERRULING OF SCHMIDT BAKING COMPANY CASE.

(a) IN GENERAL.—The Internal Revenue Code of 1986 shall be applied without regard to the result reached in the case of Schmidt Baking Company, Inc. v. Commissioner of Internal Revenue, 107 T.C. 271 (1996).

(b) REGULATIONS.— The Secretary of the Treasury or the Secretary's delegate shall prescribe regulations to reflect subsection (a).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsections (a) and (b) shall apply to taxable years beginning after October 8, 1997.

(2) SPECIAL RULE FOR TAXABLE YEARS INCLUDING OCTOBER 8, 1997.—In the case of any taxable year which includes October 8, 1997, the amount of the deduction of any taxpayer for vacation, severance, or sick pay shall be reduced by an amount equal to 60 percent of the excess (if any) of—

(A) the amount of such deduction determined without regard to this section, over

(B) the amount of such deduction which would be determined if subsections (a) and (b) applied to such taxable year.

(3) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for its first taxable year beginning after October 8, 1997—

(A) such change shall be treated as initiated by the taxpayer.

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in a prorata manner during the 10-taxable year period beginning with such first taxable year.

THE SMALL BUSINESS REAUTHORIZATION ACT OF 1997 HUBZONE ACT OF 1997

BOND AMENDMENT NO. 1543

Mr. BOND proposed an amendment to the bill (S. 1139) to reauthorize the programs of the Small Business Administration, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Small Business Reauthorization Act of 1997''.

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

SEC. 2. DEFINITIONS.

In this Act—

(1) the term ''Administration'' means the Small Business Administration;

(2) the term ''Administrator'' means the Administrator of the Small Business Administration;

(3) the term ''Committees'' means the Committees on Small Business of the House of Representatives and the Senate; and

(4) the term ''small business concern'' has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632).

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on October 1, 1997.

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by striking subsections (c) through (q) and inserting the following:

''(c) FISCAL YEAR 1998.—

''(1) PROGRAM LEVELS.—The following program levels are authorized for fiscal year 1998:

''(A) For the programs authorized by this Act, the Administration is authorized to make—

''(i) $40,000,000 in technical assistance grants, as provided in section 7(m); and

''(ii) $60,000,000 in direct loans, as provided in section 7(m).

''(B) For the programs authorized by this Act, the Administration is authorized to make $16,040,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

''(i) $12,000,000,000 in general business loans as provided in section 7(a);

''(ii) $3,000,000,000 in financings as provided in section 7(a)(13) of this Act and section 504 of the Small Business Investment Act of 1958;

''(iii) $1,000,000,000 in loans as provided in section 7(a)(21); and

''(iv) $40,000,000 in loans as provided in section 7(m).

''(C) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

''(i) $700,000,000 in purchases of participating securities; and

''(ii) $600,000,000 in guarantees of debentures.

''(D) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,000,000,000, of which not more than $650,000,000 may be in bonds approved pursuant to section 411(a)(3) of that Act.

''(E) The Administration is authorized to make grants or enter into cooperative agreements—

''(i) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $4,000,000; and

''(ii) for activities of small business development centers pursuant to section 21(c)(3)(G), $15,000,000, to remain available until expended.

''(2) ADDITIONAL AUTHORIZATIONS.—

''(A) There are authorized to be appropriated to the Administration for fiscal year 1998 such sums as may be necessary to carry out this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

''(B) Notwithstanding subparagraph (A), for fiscal year 1998—

''(i) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under paragraph (1)(B)(i) is fully funded; and

''(ii) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than $1,250,000.

''(d) FISCAL YEAR 1999.—

''(1) PROGRAM LEVELS.—The following program levels are authorized for fiscal year 1999:

''(A) For the programs authorized by this Act, the Administration is authorized to make—

''(i) $40,000,000 in technical assistance grants as provided in section 7(m); and

''(ii) $60,000,000 in direct loans, as provided in section 7(m).

''(B) For the programs authorized by this Act, the Administration is authorized to make $17,540,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

''(i) $13,000,000,000 in general business loans as provided in section 7(a);

''(ii) $3,500,000,000 in financings as provided in section 7(a)(13) of this Act and section 504 of the Small Business Investment Act of 1958;

''(iii) $1,000,000,000 in loans as provided in section 7(a)(21); and

''(iv) $40,000,000 in loans as provided in section 7(m).

''(C) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

''(i) $800,000,000 in purchases of participating securities; and

''(ii) $700,000,000 in guarantees of debentures.

''(D) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,000,000,000, of which not more than

$650,000,000 may be in bonds approved pursuant to section 411(a)(3) of that Act.

''(E) The Administration is authorized to make grants or enter cooperative agreements—

''(i) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $4,500,000; and

''(ii) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $15,000,000, to remain available until expended.

''(2) ADDITIONAL AUTHORIZATIONS.—

''(A) There are authorized to be appropriated to the Administration for fiscal year 1999 such sums as may be necessary to carry out this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

''(B) Notwithstanding subparagraph (A), for fiscal year 1999—

''(i) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under paragraph (1)(B)(i) is fully funded; and

''(ii) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than $1,250,000.

''(e) FISCAL YEAR 2000.—

''(1) PROGRAM LEVELS.—The following program levels are authorized for fiscal year 2000:

''(A) For the programs authorized by this Act, the Administration is authorized to make—

''(i) $40,000,000 in technical assistance grants as provided in section 7(m); and

''(ii) $60,000,000 in direct loans, as provided in section 7(m).

''(B) For the programs authorized by this Act, the Administration is authorized to make $20,040,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

''(i) $14,500,000,000 in general business loans as provided in section 7(a);

''(ii) $4,500,000,000 in financings as provided in section 7(a)(13) of this Act and section 504 of the Small Business Investment Act of 1958;

''(iii) $1,000,000,000 in loans as provided in section 7(a)(21); and

''(iv) $40,000,000 in loans as provided in section 7(m).

''(C) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

''(i) $900,000,000 in purchases of participating securities; and

''(ii) $800,000,000 in guarantees of debentures.

''(D) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,000,000,000, of which not more than $650,000,000 may be in bonds approved pursuant to section 411(a)(3) of that Act.

''(E) The Administration is authorized to make grants or enter cooperative agreements—

''(i) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $5,000,000; and

''(ii) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $15,000,000, to remain available until expended.

''(2) ADDITIONAL AUTHORIZATIONS.—

''(A) There are authorized to be appropriated to the Administration for fiscal year 2000 such sums as may be necessary to carry out this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

''(B) Notwithstanding subparagraph (A), for fiscal year 2000—

''(i) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under paragraph (1)(B)(i) is fully funded; and

''(ii) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than $1,250,000.''.

TITLE II—FINANCIAL ASSISTANCE

Subtitle A—Microloan Program

SEC. 201. MICROLOAN PROGRAM.

(a) LOAN LIMITS.—Section 7(m)(3)(C) of the Small Business Act (15 U.S.C. 636(m)(3)(C)) is amended by striking ''$2,500,000'' and inserting ''$3,500,000''.

(b) LOAN LOSS RESERVE FUND.—Section 7(m)(3)(D) of the Small Business Act (15 U.S.C. 636(m)(3)(D)) is amended by striking clauses (i) and (ii), and inserting the following:

''(i) during the initial 5 years of the intermediary's participation in the program under this subsection, at a level equal to not more than 15 percent of the outstanding balance of the notes receivable owed to the intermediary; and

''(ii) in each year of participation thereafter, at a level equal to not more than the greater of—

''(I) 2 times an amount reflecting the total losses of the intermediary as a result of participation in the program under this subsection, as determined by the Administrator on a case-by-case basis; or

''(II) 10 percent of the outstanding balance of the notes receivable owed to the intermediary.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in the subsection heading, by striking ''DEMONSTRATION'';

(2) by striking ''Demonstration'' each place that term appears;

(3) by striking ''demonstration'' each place that term appears; and

(4) in paragraph (12), by striking ''during fiscal years 1995 through 1997'' and inserting ''during fiscal years 1998 through 2000''.

(d) TECHNICAL ASSISTANCE GRANTS.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (4)(E)—

(A) by striking ''Each intermediary'' and inserting the following:

''(i) IN GENERAL.—Each intermediary'';

(B) by striking ''15'' and inserting ''25''; and

(C) by adding at the end the following:

''(ii) TECHNICAL ASSISTANCE.—An intermediary may expend not more than 25 percent of the funds received under paragraph (1)(B)(ii) to enter into third party contracts for the provision of technical assistance.''; and

(2) in paragraph (5)(A)—

(A) by striking ''in each of the 5 years of the demonstration program established under this subsection,''; and

(B) by striking ''for terms of up to 5 years'' and inserting ''annually''.

SEC. 202. WELFARE-TO-WORK MICROLOAN INITIATIVE.

(a) INITIATIVE.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)(A)—

(A) in clause (ii), by striking ''and'' at the end;

(B) in clause (iii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(iv) to establish a welfare-to-work microloan initiative, which shall be administered by the Administration, in order to test the feasibility of supplementing the technical assistance grants provided under clauses (ii) and (iii) of subparagraph (B) to individuals who are receiving assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), or under any comparable State funded means tested program of assistance for low-income individuals, in order to adequately assist those individuals in—

''(I) establishing small businesses; and

''(II) eliminating their dependence on that assistance.'';

(2) in paragraph (4), by adding at the end the following:

''(F) SUPPLEMENTAL GRANT.—

''(i) IN GENERAL.—The Administration may accept any funds transferred to the Administration from other departments or agencies of the Federal Government to make grants in accordance with this subparagraph and section 202(b) of the Small Business Reauthorization Act of 1997 to participating intermediaries and technical assistance providers under paragraph (5), for use in accordance with clause (iii) to provide additional technical assistance and related services to recipients of assistance under a State program described in paragraph (1)(A)(iv) at the time they initially apply for assistance under this subparagraph.

''(ii) ELIGIBLE RECIPIENTS; GRANT AMOUNTS.—In making grants under this subparagraph, the Administration may select, from among participating intermediaries and technical assistance providers described in clause (i), not more than 20 grantees in fiscal year 1998, not more than 25 grantees in fiscal year 1999, and not more than 30 grantees in fiscal year 2000, each of whom may receive a grant under this subparagraph in an amount not to exceed $200,000 per year.

''(iii) USE OF GRANT AMOUNTS.—Grants under this subparagraph—

''(I) are in addition to other grants provided under this subsection and shall not require the contribution of matching amounts as a condition of eligibility; and

''(II) may be used by a grantee—

''(aa) to pay or reimburse a portion of child care and transportation costs of recipients of assistance described in clause (i), to the extent such costs are not otherwise paid by State block grants under the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) or under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

''(bb) for marketing, management, and technical assistance to recipients of assistance described in clause (i).

''(iv) MEMORANDUM OF UNDERSTANDING.—Prior to accepting any transfer of funds under clause (i) from a department or agency

of the Federal Government, the Administration shall enter into a Memorandum of Understanding with the department or agency, which shall—

''(I) specify the terms and conditions of the grants under this subparagraph; and

''(II) provide for appropriate monitoring of expenditures by each grantee under this subparagraph and each recipient of assistance described in clause (i) who receives assistance from a grantee under this subparagraph, in order to ensure compliance with this subparagraph by those grantees and recipients of assistance.'';

(3) in paragraph (6), by adding at the end the following:

''(E) ESTABLISHMENT OF CHILD CARE OR TRANSPORTATION BUSINESSES.—In addition to other eligible small businesses concerns, borrowers under any program under this subsection may include individuals who will use the loan proceeds to establish for-profit or nonprofit child care establishments or businesses providing for-profit transportation services.'';

(4) in paragraph (9)—

(A) by striking the paragraph designation and paragraph heading and inserting the following:

''(9) GRANTS FOR MANAGEMENT, MARKETING, TECHNICAL ASSISTANCE, AND RELATED SERVICES.—''; and

(B) by adding at the end the following:

''(C) WELFARE-TO-WORK MICROLOAN INITIATIVE.—Of amounts made available to carry out the welfare-to-work microloan initiative under paragraph (1)(A)(iv) in any fiscal year, the Administration may use not more than 5 percent to provide technical assistance, either directly or through contractors, to welfare-to-work microloan initiative grantees, to ensure that, as grantees, they have the knowledge, skills, and understanding of microlending and welfare-to-work transition, and other related issues, to operate a successful welfare-to-work microloan initiative.''; and

(5) by adding at the end the following:

''(13) EVALUATION OF WELFARE-TO-WORK MICROLOAN INITIATIVE.—On January 31, 1999, and annually thereafter, the Administration shall submit to the Committees on Small Business of the House of Representatives and the Senate a report on any monies distributed pursuant to paragraph (4)(F).''.

(b) TRANSFER OF FUNDS.—

(1) IN GENERAL.—No funds are authorized to be appropriated or otherwise provided to carry out the grant program under section 7(m)(4)(F) of the Small Business Act (15 U.S.C. 636(m)(4)(F)) (as added by this section), except by transfer from another department or agency of the Federal Government to the Administration in accordance with this subsection.

(2) LIMITATION ON AMOUNTS.—The total amount transferred to the Administration from other departments and agencies of the Federal Government to carry out the grant program under section 7(m)(4)(F) of the Small Business Act (15 U.S.C. 636(m)(4)(F)) (as added by this section) shall not exceed—

(A) $3,000,000 for fiscal year 1998;

(B) $4,000,000 for fiscal year 1999; and

(C) $5,000,000 for fiscal year 2000.

Subtitle B—Small Business Investment Company Program

SEC. 211. 5-YEAR COMMITMENTS FOR SBICs AT OPTION OF ADMINISTRATOR.

Section 20(a)(2) of the Small Business Act (15 U.S.C. 631 note) is amended in the last sentence by striking ''the following fiscal year'' and inserting ''any 1 or more of the 4 subsequent fiscal years''.

SEC. 212. UNDERSERVED AREAS.

Section 301(c)(4)(B) of the Small Business Investment Act of 1958 (15 U.S.C. 681(c)(4)(B)) is amended to read as follows:

''(B) LEVERAGE.—An applicant licensed pursuant to the exception provided in this paragraph shall not be eligible to receive leverage as a licensee until the applicant satisfies the requirements of section 302(a), unless the applicant—

''(i) files an application for a license not later than 180 days after the date of enactment of the Small Business Reauthorization Act of 1997;

''(ii) is located in a State that is not served by a licensee; and

''(iii) agrees to be limited to 1 tier of leverage available under section 302(b), until the applicant meets the requirements of section 302(a).''.

SEC. 213. PRIVATE CAPITAL.

Section 103(9)(B)(iii) of the Small Business Investment Act of 1958 (15 U.S.C. 662(9)(B)(iii)) is amended—

(1) by redesignating subclauses (I) and (II) as subclauses (II) and (III), respectively; and

(2) by inserting before subclause (II) (as redesignated) the following:

''(I) funds obtained from the business revenues (excluding any governmental appropriation) of any federally chartered or government-sponsored corporation established prior to October 1, 1987;''.

SEC. 214. FEES.

Section 301 of the Small Business Investment Act of 1958 (15 U.S.C. 681) is amended by adding at the end the following:

''(e) FEES.—

''(1) IN GENERAL.—The Administration may prescribe fees to be paid by each applicant for a license to operate as a small business investment company under this Act.

''(2) USE OF AMOUNTS.—Fees collected under this subsection—

''(A) shall be deposited in the account for salaries and expenses of the Administration; and

''(B) are authorized to be appropriated solely to cover the costs of licensing examinations.''.

SEC. 215. SMALL BUSINESS INVESTMENT COMPANY PROGRAM REFORM.

(a) BANK INVESTMENTS.—Section 302(b) of the Small Business Investment Act of 1958 (15 U.S.C. 682(b)) is amended by striking ''1956,'' and all that follows before the period and inserting the following: ''1956, any national bank, or any member bank of the Federal Reserve System or nonmember insured bank to the extent permitted under applicable State law, may invest in any 1 or more small business investment companies, or in any entity established to invest solely in small business investment companies, except that in no event shall the total amount of such investments of any such bank exceed 5 percent of the capital and surplus of the bank''.

(b) INDEXING FOR LEVERAGE.—Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by adding at the end the following:

''(D)(i) The dollar amounts in subparagraphs (A), (B), and (C) shall be adjusted annually to reflect increases in the Consumer Price Index established by the Bureau of Labor Statistics of the Department of Labor.

''(ii) The initial adjustments made under this subparagraph after the date of enactment of the Small Business Reauthorization Act of 1997 shall reflect only increases from March 31, 1993.''; and

(B) by striking paragraph (4) and inserting the following:

''(4) MAXIMUM AGGREGATE AMOUNT OF LEVERAGE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the aggregate amount of outstanding leverage issued to any company or companies that are commonly controlled (as determined by the Administrator) may not exceed $90,000,000, as adjusted annually for increases in the Consumer Price Index.

''(B) EXCEPTIONS.—The Administrator may, on a case-by-case basis—

''(i) approve an amount of leverage that exceeds the amount described in subparagraph (A) for companies under common control; and

''(ii) impose such additional terms and conditions as the Administrator determines to be appropriate to minimize the risk of loss to the Administration in the event of default.

''(C) APPLICABILITY OF OTHER PROVISIONS.—Any leverage that is issued to a company or companies commonly controlled in an amount that exceeds $90,000,000, whether as a result of an increase in the Consumer Price Index or a decision of the Administrator, is subject to subsection (d).''; and

(2) by striking subsection (d) and inserting the following:

''(d) REQUIRED CERTIFICATIONS.—

''(1) IN GENERAL.—The Administrator shall require each licensee, as a condition of approval of an application for leverage, to certify in writing—

''(A) for licensees with leverage less than or equal to $90,000,000, that not less than 20 percent of the licensee's aggregate dollar amount of financings will be provided to smaller enterprises; and

''(B) for licensees with leverage in excess of $90,000,000, that, in addition to satisfying the requirements of subparagraph (A), 100 percent of the licensee's aggregate dollar amount of financings made in whole or in part with leverage in excess of $90,000,000 will be provided to smaller enterprises (as defined in section 103(12)).

''(2) MULTIPLE LICENSEES.—Multiple licensees under common control (as determined by the Administrator) shall be considered to be a single licensee for purposes of determining both the applicability of and compliance with the investment percentage requirements of this subsection.''.

(c) TAX DISTRIBUTIONS.—Section 303(g)(8) of the Small Business Investment Act of 1958 (15 U.S.C. 683(g)(8)) is amended by adding at the end the following: ''A company may also elect to make a distribution under this paragraph at the end of any calendar quarter based on a quarterly estimate of the maximum tax liability. If a company makes 1 or more quarterly distributions for a calendar year, and the aggregate amount of those distributions exceeds the maximum amount that the company could have distributed based on a single annual computation, any subsequent distribution by the company under this paragraph shall be reduced by an amount equal to the excess amount distributed.''.

(d) LEVERAGE FEE.—Section 303(i) of the Small Business Investment Act of 1958 (15 U.S.C. 683(i)) is amended by striking '', payable upon'' and all that follows before the period and inserting the following: ''in the following manner: 1 percent upon the date on which the Administration enters into any commitment for such leverage with the licensee, and the balance of 2 percent (or 3 percent if no commitment has been entered into by the Administration) on the date on which the leverage is drawn by the licensee''.

(e) PERIODIC ISSUANCE OF GUARANTEES AND TRUST CERTIFICATES.—Section 320 of the Small Business Investment Act of 1958 (15 U.S.C. 687m) is amended by striking ''three months'' and inserting ''6 months''.

SEC. 216. EXAMINATION FEES.

Section 310(b) of the Small Business Investment Act of 1958 (15 U.S.C. 687b(b)) is amended by inserting after the first sentence the following: ''Fees collected under this

subsection shall be deposited in the account for salaries and expenses of the Administration, and are authorized to be appropriated solely to cover the costs of examinations and other program oversight activities.''.

Subtitle C—Certified Development Company Program

SEC. 221. LOANS FOR PLANT ACQUISITION, CONSTRUCTION, CONVERSION, AND EXPANSION.

Section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) USE OF PROCEEDS.—The proceeds of any such loan shall be used solely by the borrower to assist 1 or more identifiable small business concerns and for a sound business purpose approved by the Administration.'';

(2) in paragraph (3), by adding at the end the following:

''(D) SELLER FINANCING.—Seller-provided financing may be used to meet the requirements of subparagraph (B), if the seller subordinates the interest of the seller in the property to the debenture guaranteed by the Administration.

''(E) COLLATERALIZATION.—The collateral provided by the small business concern shall generally include a subordinate lien position on the property being financed under this title, and is only 1 of the factors to be evaluated in the credit determination. Additional collateral shall be required only if the Administration determines, on a case by case basis, that additional security is necessary to protect the interest of the Government.''; and

(3) by adding at the end the following:

''(5) LIMITATION ON LEASING.—In addition to any portion of the project permitted to be leased under paragraph (4), not to exceed 20 percent of the project may be leased by the assisted small business to 1 or more other tenants, if the assisted small business occupies permanently and uses not less than a total of 60 percent of the space in the project after the execution of any leases authorized under this section.''.

SEC. 222. DEVELOPMENT COMPANY DEBENTURES.

Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended—

(1) in subsection (b)(7), by striking subparagraph (A) and inserting the following:

''(A) assesses and collects a fee, which shall be payable by the borrower, in an amount established annually by the Administration, which amount shall not exceed the lesser of—

''(i) 0.9375 percent per year of the outstanding balance of the loan; and

''(ii) the minimum amount necessary to reduce the cost (as defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of purchasing and guaranteeing debentures under this Act to zero; and''; and

(2) in subsection (f), by striking ''1997'' and inserting ''2000''.

SEC. 223. PREMIER CERTIFIED LENDERS PROGRAM.

(a) IN GENERAL.—Section 508 of the Small Business Investment Act of 1958 (15 U.S.C. 697e) is amended—

(1) in subsection (a), by striking ''not more than 15'';

(2) in subsection (b)—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking ''if such company'';

(ii) by striking subparagraphs (A) and (B) and inserting the following:

''(A) if the company is an active certified development company in good standing and has been an active participant in the accredited lenders program during the entire 12-month period preceding the date on which the company submits an application under paragraph (1), except that the Administration may waive this requirement if the company is qualified to participate in the accredited lenders program;

''(B) if the company has a history of—

''(i) submitting to the Administration adequately analyzed debenture guarantee application packages; and

''(ii) of properly closing section 504 loans and servicing its loan portfolio;'';

(iii) in subparagraph (C)—

(I) by inserting ''if the company'' after ''(C)''; and

(II) by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(D) the Administrator determines, with respect to the company, that the loss reserve established in accordance with subsection (c)(2) is sufficient for the company to meet its obligations to protect the Federal Government from risk of loss.''; and

(B) by adding at the end the following:

''(3) APPLICABILITY OF CRITERIA AFTER DESIGNATION.—The Administrator may revoke the designation of a certified development company as a premier certified lender under this section at any time, if the Administrator determines that the certified development company does not meet any requirement described in subparagraphs (A) through (D) of paragraph (2).'';

(3) by striking subsection (c) and inserting the following:

''(c) LOSS RESERVE.—

''(1) ESTABLISHMENT.—A company designated as a premier certified lender shall establish a loss reserve for financing approved pursuant to this section.

''(2) AMOUNT.—The amount of each loss reserve established under paragraph (1) shall be 10 percent of the amount of the company's exposure, as determined under subsection (b)(2)(C).

''(3) ASSETS.—Each loss reserve established under paragraph (1) shall be comprised of—

''(A) segregated funds on deposit in an account or accounts with a federally insured depository institution or institutions selected by the company, subject to a collateral assignment in favor of, and in a format acceptable to, the Administration;

''(B) irrevocable letter or letters of credit, with a collateral assignment in favor of, and a commercially reasonable format acceptable to, the Administration; or

''(C) any combination of the assets described in subparagraphs (A) and (B).

''(4) CONTRIBUTIONS.—The company shall make contributions to the loss reserve, either cash or letters of credit as provided above, in the following amounts and at the following intervals:

''(A) 50 percent when a debenture is closed.

''(B) 25 percent additional not later than 1 year after a debenture is closed.

''(C) 25 percent additional not later than 2 years after a debenture is closed.

''(5) REPLENISHMENT.—If a loss has been sustained by the Administration, any portion of the loss reserve, and other funds provided by the premier company as necessary, may be used to reimburse the Administration for the premier company's 10 percent share of the loss as provided in subsection (b)(2)(C). If the company utilizes the reserve, within 30 days it shall replace an equivalent amount of funds.

''(6) DISBURSEMENTS.—The Administration shall allow the certified development company to withdraw from the loss reserve amounts attributable to any debenture that has been repaid.'';

(4) in subsection (d)(1), by striking ''to approve loans'' and inserting ''to approve, authorize, close, service, foreclose, litigate (except that the Administration may monitor the conduct of any such litigation to which a premier certified lender is a party), and liquidate loans'';

(5) in subsection (f), by striking ''State or local'' and inserting ''certified'';

(6) in subsection (g), by striking the subsection heading and inserting the following:

''(g) EFFECT OF SUSPENSION OR REVOCATION.—'';

(7) by striking subsection (h) and inserting the following:

''(h) PROGRAM GOALS.—Each certified development company participating in the program under this section shall establish a goal of processing a minimum of not less than 50 percent of the loan applications for assistance under section 504 pursuant to the program authorized under this section.''; and

(8) in subsection (i), by striking ''other lenders'' and inserting ''other lenders, specifically comparing default rates and recovery rates on liquidations''.

(b) REGULATIONS.—The Administrator shall—

(1) not later than 150 days after the date of enactment of this Act, promulgate regulations to carry out the amendments made by subsection (a); and

(2) not later than 180 days after the date of enactment of this Act, issue program guidelines and fully implement the amendments made by subsection (a).

(c) PROGRAM EXTENSION.—Section 217(b) of the Small Business Reauthorization and Amendments Act of 1994 (15 U.S.C. 697e note) is amended by striking ''October 1, 1997'' and inserting ''October 1, 2000''.

Subtitle D—Miscellaneous Provisions

SEC. 231. BACKGROUND CHECK OF LOAN APPLICANTS.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) by striking ''(a) The Administration'' and inserting the following:

''(a) LOANS TO SMALL BUSINESS CONCERNS; ALLOWABLE PURPOSES; QUALIFIED BUSINESS; RESTRICTIONS AND LIMITATIONS.—The Administration''; and

(2) in paragraph (1)—

(A) by striking ''(1) No financial'' and inserting the following:

''(1) IN GENERAL.—

''(A) CREDIT ELSEWHERE.—No financial''; and

(B) by adding at the end the following:

''(B) BACKGROUND CHECKS.—Prior to the approval of any loan made pursuant to this subsection, or section 503 of the Small Business Investment Act of 1958, the Administrator may verify the applicant's criminal background, or lack thereof, through the best available means, including, if possible, use of the National Crime Information Center computer system at the Federal Bureau of Investigation.''.

SEC. 232. REPORT ON INCREASED LENDER APPROVAL, SERVICING, FORECLOSURE, LIQUIDATION, AND LITIGATION OF SECTION 7(a) LOANS.

(a) IN GENERAL.—

(1) SUBMISSION.—Not later than 6 months after the date of enactment of this Act, the Administrator shall submit to the Committees a report on action taken and planned for future reliance on private sector lender resources to originate, approve, close, service, liquidate, foreclose, and litigate loans made under section 7(a) of the Small Business Act.

(2) CONTENTS.—The report under this subsection shall address administrative and other steps necessary to achieve the results described in paragraph (1), including—

(A) streamlining the process for approving lenders and standardizing requirements;

(B) establishing uniform reporting requirements using on-line automated capabilities to the maximum extent feasible;

(C) reducing paperwork through automation, simplified forms, or incorporation of lender's forms;

(D) providing uniform standards for approval, closing, servicing, foreclosure, and liquidation;

(E) promulgating new regulations or amending existing ones;

(F) establishing a timetable for implementing the plan for reliance on private sector lenders;

(G) implementing organizational changes at SBA; and

(H) estimating the annual savings that would occur as a result of implementation.

(b) CONSULTATION.—In preparing the report under subsection (a), the Administrator shall consult with, among others—

(1) borrowers and lenders under section 7(a) of the Small Business Act;

(2) small businesses that are potential program participants under section 7(a) of the Small Business Act;

(3) financial institutions that are potential program lenders under section 7(a) of the Small Business Act; and

(4) representative industry associations.

SEC. 233. COMPLETION OF PLANNING FOR LOAN MONITORING SYSTEM.

(a) IN GENERAL.—The Administrator shall perform and complete the planning needed to serve as the basis for funding the development and implementation of the computerized loan monitoring system, including—

(1) fully defining the system requirement using on-line, automated capabilities to the extent feasible;

(2) identifying all data inputs and outputs necessary for timely report generation;

(3) benchmark loan monitoring business processes and systems against comparable industry processes and, if appropriate, simplify or redefine work processes based on these benchmarks;

(4) determine data quality standards and control systems for ensuring information accuracy;

(5) identify an acquisition strategy and work increments to completion;

(6) analyze the benefits and costs of alternatives and use to demonstrate the advantage of the final project;

(7) ensure that the proposed information system is consistent with the agency's information architecture; and

(8) estimate the cost to system completion, identifying the essential cost element.

(b) REPORT.—

(1) IN GENERAL.—On the date that is 6 months after the date of enactment of this Act, the Administrator shall submit a report on the progress of the Administrator in carrying out subsection (a) to—

(A) the Committees; and

(B) the Comptroller General of the United States.

(2) EVALUATION.—Not later than 28 days after receipt of the report under paragraph (1)(B), the Comptroller General of the United States shall—

(A) prepare a written evaluation of the report for compliance with subsection (a); and

(B) submit the evaluation to the Committees.

(3) LIMITATION.—None of the funds provided for the purchase of the loan monitoring system may be obligated or expended until 45 days after the date on which the Committees and the Comptroller General of the United States receive the report under paragraph (1).

TITLE III—WOMEN'S BUSINESS ENTERPRISES

SEC. 301. INTERAGENCY COMMITTEE PARTICIPATION.

Section 403 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) in subsection (a)(2)(A)—

(A) by striking ''and Amendments Act of 1994'' and inserting ''Act of 1997''; and

(B) by inserting before the final period '', and who shall report directly to the head of the agency on the status of the activities of the Interagency Committee'';

(2) in subsection (a)(2)(B), by inserting before the final period the following: ''and shall report directly to the Administrator on the status of the activities on the Interagency Committee and shall serve as the Interagency Committee Liaison to the National Women's Business Council established under section 405''; and

(3) in subsection (b), by striking ''and Amendments Act of 1994'' and inserting ''Act of 1997''.

SEC. 302. REPORTS.

Section 404 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by inserting '', through the Small Business Administration,'' after ''transmit'';

(2) by striking paragraph (1) and redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively; and

(3) in paragraph (1), as redesignated, by inserting before the semicolon the following: '', including a verbatim report on the status of progress of the Interagency Committee in meeting its responsibilities and duties under section 402(a)''.

SEC. 303. COUNCIL DUTIES.

Section 406 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) in subsection (c), by inserting after ''Administrator'' the following: ''(through the Assistant Administrator of the Office of Women's Business Ownership)''; and

(2) in subsection (d)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(6) not later than 90 days after the last day of each fiscal year, submit to the President and to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives, a report containing—

''(A) a detailed description of the activities of the council, including a status report on the Council's progress toward meeting its duties outlined in subsections (a) and (d) of section 406;

''(B) the findings, conclusions, and recommendations of the Council; and

''(C) the Council's recommendations for such legislation and administrative actions as the Council considers appropriate to promote the development of small business concerns owned and controlled by women.

''(e) FORM OF TRANSMITTAL.—The information included in each report under subsection (d) that is described in subparagraphs (A) through (C) of subsection (d)(6), shall be reported verbatim, together with any separate additional, concurring, or dissenting views of the Administrator.''.

SEC. 304. COUNCIL MEMBERSHIP.

Section 407 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) in subsection (a), by striking ''and Amendments Act of 1994'' and inserting ''Act of 1997'';

(2) in subsection (b)—

(A) by striking ''and Amendments Act of 1994'' and inserting ''Act of 1997'';

(B) by inserting after ''the Administrator shall'' the following: '', after receiving the recommendations of the Chairman and the Ranking Member of the Committees on Small Business of the House of Representatives and the Senate,'';

(C) by striking ''9'' and inserting ''14'';

(D) in paragraph (1), by striking ''2'' and inserting ''4'';

(E) in paragraph (2), by striking ''2'' and inserting ''4''; and

(F) in paragraph (3)—

(i) by striking ''5'' and inserting ''6'';

(ii) by striking ''national''; and

(iii) by inserting '', including representatives of women's business center sites'' before the period at the end;

(3) in subsection (c), by inserting ''(including both urban and rural areas)'' after ''geographic'';

(4) by striking subsection (d) and inserting the following:

''(d) TERMS.—Each member of the Council shall be appointed for a term of 3 years, except that, of the initial members appointed to the Council—

''(1) 2 members appointed under subsection (b)(1) shall be appointed for a term of 1 year;

''(2) 2 members appointed under subsection (b)(2) shall be appointed for a term of 1 year; and

''(3) each member appointed under subsection (b)(3) shall be appointed for a term of 2 years.''; and

(5) by striking subsection (f) and inserting the following:

''(f) VACANCIES.—

''(1) IN GENERAL.—A vacancy on the Council shall be filled not later than 30 days after the date on which the vacancy occurs, in the manner in which the original appointment was made, and shall be subject to any conditions that applied to the original appointment.

''(2) UNEXPIRED TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.''.

SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

Section 409 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

''SEC. 411. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $600,000, for each of fiscal years 1998 through 2000, of which $200,000 shall be available in each fiscal year to carry out sections 409 and 410.

''(b) BUDGET REVIEW.—No amount made available under this section for any fiscal year may be obligated or expended by the Council before the date on which the Council reviews and approves the operating budget of the Council to carry out the responsibilities of the Council for that fiscal year.''.

SEC. 306. NATIONAL WOMEN'S BUSINESS COUNCIL PROCUREMENT PROJECT.

The Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by inserting after section 408 the following:

''SEC. 409. NATIONAL WOMEN'S BUSINESS COUNCIL PROCUREMENT PROJECT.

''(a) FEDERAL PROCUREMENT STUDY.—

''(1) IN GENERAL.—During the first fiscal year for which amounts are made available to carry out this section, the Council shall conduct a study on the award of Federal prime contracts and subcontracts to women-owned businesses, which study shall include—

''(A) an analysis of data collected by Federal agencies on contract awards to women-owned businesses;

''(B) a determination of the degree to which individual Federal agencies are in compliance with the 5 percent women-owned business procurement goal established by section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1));

''(C) a determination of the types and amounts of Federal contracts characteristically awarded to women-owned businesses; and

''(D) other relevant information relating to participation of women-owned businesses in Federal procurement.

''(2) SUBMISSION OF RESULTS.—Not later than 12 months after initiating the study under paragraph (1), the Council shall submit to the Committees on Small Business of the House of Representatives and the Senate, and to the President, the results of the study conducted under paragraph (1).

''(b) BEST PRACTICES REPORT.—Not later than 18 months after initiating the study under subsection (a)(1), the Council shall submit to the Committees on Small Business of the House of Representatives and the Senate, and to the President, a report, which shall include—

''(1) an analysis of the most successful practices in attracting women-owned businesses as prime contractors and subcontractors by—

''(A) Federal agencies (as supported by findings from the study required under subsection (a)(1)) in Federal procurement awards; and

''(B) the private sector; and

''(2) recommendations for policy changes in Federal procurement practices, including an increase in the Federal procurement goal for women-owned businesses, in order to maximize the number of women-owned businesses performing Federal contracts.

''(c) CONTRACT AUTHORITY.—In conducting any study or other research under this section, the Council may contract with 1 or more public or private entities.''.

SEC. 307. STUDIES AND OTHER RESEARCH.

The Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by inserting after section 409 (as added by section 306 of this title) the following:

''SEC. 410. STUDIES AND OTHER RESEARCH.

''(a) IN GENERAL.—To the extent that it does not delay submission of the report under section 409(b), the Council may also conduct such studies and other research relating to the award of Federal prime contracts and subcontracts to women-owned businesses, or to issues relating to access to credit and investment capital by women entrepreneurs, as the Council determines to be appropriate.

''(b) CONTRACT AUTHORITY.—In conducting any study or other research under this section, the Council may contract with 1 or more public or private entities.''.

SEC. 308. WOMEN'S BUSINESS CENTERS.

(a) IN GENERAL.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended to read as follows:

''SEC. 29. WOMEN'S BUSINESS CENTER PROGRAM.

''(a) DEFINITIONS.—In this section—

''(1) the term 'Assistant Administrator' means the Assistant Administrator of the Office of Women's Business Ownership established under subsection (g);

''(2) the term 'small business concern owned and controlled by women', either startup or existing, includes any small business concern—

''(A) that is not less than 51 percent owned by 1 or more women; and

''(B) the management and daily business operations of which are controlled by 1 or more women; and

''(3) the term 'women's business center site' means the location of—

''(A) a women's business center; or

''(B) 1 or more women's business centers, established in conjunction with another women's business center in another location within a State or region—

''(i) that reach a distinct population that would otherwise not be served;

''(ii) whose services are targeted to women; and

''(iii) whose scope, function, and activities are similar to those of the primary women's business center or centers in conjunction with which it was established.

''(b) AUTHORITY.—The Administration may provide financial assistance to private organizations to conduct 5-year projects for the benefit of small business concerns owned and controlled by women. The projects shall provide—

''(1) financial assistance, including training and counseling in how to apply for and secure business credit and investment capital, preparing and presenting financial statements, and managing cash flow and other financial operations of a business concern;

''(2) management assistance, including training and counseling in how to plan, organize, staff, direct, and control each major activity and function of a small business concern; and

''(3) marketing assistance, including training and counseling in identifying and segmenting domestic and international market opportunities, preparing and executing marketing plans, developing pricing strategies, locating contract opportunities, negotiating contracts, and utilizing varying public relations and advertising techniques.

''(c) CONDITIONS OF PARTICIPATION.—

''(1) NON-FEDERAL CONTRIBUTIONS.—As a condition of receiving financial assistance authorized by this section, the recipient organization shall agree to obtain, after its application has been approved and notice of award has been issued, cash contributions from non-Federal sources as follows:

''(A) in the first and second years, 1 non-Federal dollar for each 2 Federal dollars;

''(B) in the third and fourth years, 1 non-Federal dollar for each Federal dollar; and

''(C) in the fifth year, 2 non-Federal dollars for each Federal dollar.

''(2) FORM OF NON-FEDERAL CONTRIBUTIONS.—Not more than one-half of the non-Federal sector matching assistance may be in the form of in-kind contributions that are budget line items only, including office equipment and office space.

''(3) FORM OF FEDERAL CONTRIBUTIONS.—The financial assistance authorized pursuant to this section may be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way of reimbursement. The Administration may disburse up to 25 percent of each year's Federal share awarded to a recipient organization after notice of the award has been issued and before the non-Federal sector matching funds are obtained.

''(4) FAILURE TO OBTAIN NON-FEDERAL FUNDING.—If any recipient of assistance fails to obtain the required non-Federal contribution during any project, it shall not be eligible thereafter for advance disbursements pursuant to paragraph (3) during the remainder of that project, or for any other project for which it is or may be funded by the Administration, and prior to approving assistance to such organization for any other projects, the Administration shall specifically determine whether the Administration believes that the recipient will be able to obtain the requisite non-Federal funding and enter a written finding setting forth the reasons for making such determination.

''(d) CONTRACT AUTHORITY.—A women's business center may enter into a contract with a Federal department or agency to provide specific assistance to women and other underserved small business concerns. Performance of such contract should not hinder the women's business centers in carrying out the terms of the grant received by the women's business centers from the Administration.

''(e) SUBMISSION OF 5-YEAR PLAN.—Each applicant organization initially shall submit a 5-year plan to the Administration on proposed fundraising and training activities, and a recipient organization may receive financial assistance under this program for a maximum of 5 years per women's business center site.

''(f) CRITERIA.—The Administration shall evaluate and rank applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration. The criteria shall include—

''(1) the experience of the applicant in conducting programs or ongoing efforts designed to impart or upgrade the business skills of women business owners or potential owners;

''(2) the present ability of the applicant to commence a project within a minimum amount of time;

''(3) the ability of the applicant to provide training and services to a representative number of women who are both socially and economically disadvantaged; and

''(4) the location for the women's business center site proposed by the applicant.

''(g) OFFICE OF WOMEN'S BUSINESS OWNERSHIP.—

''(1) ESTABLISHMENT.—There is established within the Administration an Office of Women's Business Ownership, which shall be responsible for the administration of the Administration's programs for the development of women's business enterprises (as defined in section 408 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note)). The Office of Women's Business Ownership shall be administered by an Assistant Administrator, who shall be appointed by the Administrator.

''(2) ASSISTANT ADMINISTRATOR OF THE OFFICE OF WOMEN'S BUSINESS OWNERSHIP.—

''(A) QUALIFICATION.—The position of Assistant Administrator shall be a Senior Executive Service position under section 3132(a)(2) of title 5, United States Code. The Assistant Administrator shall serve as a noncareer appointee (as defined in section 3132(a)(7) of that title).

''(B) RESPONSIBILITIES AND DUTIES.—

''(i) RESPONSIBILITIES.—The responsibilities of the Assistant Administrator shall be to administer the programs and services of the Office of Women's Business Ownership established to assist women entrepreneurs in the areas of—

''(I) starting and operating a small business;

''(II) development of management and technical skills;

''(III) seeking Federal procurement opportunities; and

''(IV) increasing the opportunity for access to capital.

''(ii) DUTIES.—The Assistant Administrator shall—

''(I) administer and manage the Women's Business Center program;

''(II) recommend the annual administrative and program budgets for the Office of Women's Business Ownership (including the budget for the Women's Business Center program);

''(III) establish appropriate funding levels therefore;

''(IV) review the annual budgets submitted by each applicant for the Women's Business Center program;

''(V) select applicants to participate in the program under this section;

''(VI) implement this section;

''(VII) maintain a clearinghouse to provide for the dissemination and exchange of information between women's business centers;

''(VIII) serve as the vice chairperson of the Interagency Committee on Women's Business Enterprise;

''(IX) serve as liaison for the National Women's Business Council; and

''(X) advise the Administrator on appointments to the Women's Business Council.

''(C) CONSULTATION REQUIREMENTS.—In carrying out the responsibilities and duties described in this paragraph, the Assistant Administrator shall confer with and seek the advice of the Administration officials in areas served by the women's business centers.

''(h) PROGRAM EXAMINATION.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Small Business Reauthorization Act of 1997, the Administrator shall develop and implement an annual programmatic and financial examination of each women's business center established pursuant to this section.

''(2) EXTENSION OF CONTRACTS.—In extending or renewing a contract with a women's business center, the Administrator shall consider the results of the examination conducted under paragraph (1).

''(i) CONTRACT AUTHORITY.—The authority of the Administrator to enter into contracts shall be in effect for each fiscal year only to the extent and in the amounts as are provided in advance in appropriations Acts. After the Administrator has entered into a contract, either as a grant or a cooperative agreement, with any applicant under this section, it shall not suspend, terminate, or fail to renew or extend any such contract unless the Administrator provides the applicant with written notification setting forth the reasons therefore and affords the applicant an opportunity for a hearing, appeal, or other administrative proceeding under chapter 5 of title 5, United States Code.

''(j) REPORT.—The Administrator shall prepare and submit an annual report to the Committees on Small Business of the House of Representatives and the Senate on the effectiveness of all projects conducted under the authority of this section. Such report shall provide information concerning—

''(1) the number of individuals receiving assistance;

''(2) the number of startup business concerns formed;

''(3) the gross receipts of assisted concerns;

''(4) increases or decreases in profits of assisted concerns; and

''(5) the employment increases or decreases of assisted concerns.

''(k) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated $8,000,000 for each fiscal year to carry out the projects authorized under this section, of which, for fiscal year 1998, not more than 5 percent may be used for administrative expenses related to the program under this section.

''(2) USE OF AMOUNTS.—Amounts made available under this subsection for fiscal year 1999, and each fiscal year thereafter, may only be used for grant awards and may not be used for costs incurred by the Administration in connection with the management and administration of the program under this section.

''(3) EXPEDITED ACQUISITION.—Notwithstanding any other provision of law, the Administrator, acting through the Assistant Administrator, may use such expedited acquisition methods as the Administrator determines to be appropriate to carry out this section, except that the Administrator shall ensure that all small business sources are provided a reasonable opportunity to submit proposals.''.

(b) APPLICABILITY.—

(1) IN GENERAL.—Subject to paragraph (2), any organization conducting a 3-year project under section 29 of the Small Business Act (15 U.S.C. 656) (as in effect on the day before the effective date of this Act) on September 30, 1997, may request an extension of the term of that project to a total term of 5 years. If such an extension is made, the organization shall receive financial assistance in accordance with section 29(c) of the Small Business Act (as amended by this section) subject to procedures established by the Administrator, in coordination with the Assistant Administrator of the Office of Women's Business Ownership established under section 29 of the Small Business Act (15 U.S.C. 656) (as amended by this section).

(2) TERMS OF ASSISTANCE FOR CERTAIN ORGANIZATIONS.—Any organization operating in the third year of a 3-year project under section 29 of the Small Business Act (15 U.S.C. 656) (as in effect on the day before the effective date of this Act) on September 30, 1997, may request an extension of the term of that project to a total term of 5 years. If such an extension is made, during the fourth and fifth years of the project, the organization shall receive financial assistance in accordance with section 29(c)(1)(C) of the Small Business Act (as amended by this section) subject to procedures established by the Administrator, in coordination with the Assistant Administrator of the Office of Women's Business Ownership established under section 29 of the Small Business Act (15 U.S.C. 656) (as amended by this section).

TITLE IV—COMPETITIVENESS PROGRAM AND PROCUREMENT OPPORTUNITIES

Subtitle A—Small Business Competitiveness Program

SEC. 401. PROGRAM TERM.

Section 711(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended by striking '', and terminate on September 30, 1997''.

SEC. 402. MONITORING AGENCY PERFORMANCE.

Section 712(d)(1) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended to read as follows:

''(1) Participating agencies shall monitor the attainment of their small business participation goals on an annual basis. An annual review by each participating agency shall be completed not later than January 31 of each year, based on the data for the preceding fiscal year, from October 1 through September 30.''.

SEC. 403. REPORTS TO CONGRESS.

Section 716(a) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended—

(1) by striking ''1996'' and inserting ''2000'';

(2) by striking ''for Federal Procurement Policy'' and inserting ''of the Small Business Administration''; and

(3) by striking ''Government Operations'' and inserting ''Government Reform and Oversight''.

SEC. 404. SMALL BUSINESS PARTICIPATION IN DREDGING.

Section 722(a) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended by striking ''and terminating on September 30, 1997''.

SEC. 405. TECHNICAL AMENDMENTS.

Section 717 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended—

(1) by inserting ''or North American Industrial Classification Code'' after ''standard industrial classification code'' each place it appears; and

(2) by inserting ''or North American Industrial Classification Codes'' after ''standard industrial classification codes'' each place it appears.

Subtitle B—Small Business Procurement Opportunities Program

SEC. 411. CONTRACT BUNDLING.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end the following:

''(j) CONTRACT BUNDLING.—In complying with the statement of congressional policy expressed in subsection (a), relating to fostering the participation of small business concerns in the contracting opportunities of the Government, each Federal agency, to the maximum extent practicable, shall—

''(1) comply with congressional intent to foster the participation of small business concerns as prime contractors, subcontractors, and suppliers;

''(2) structure its contracting requirements to facilitate competition by and among small business concerns, taking all reasonable steps to eliminate obstacles to their participation; and

''(3) avoid unnecessary and unjustified bundling of contract requirements that precludes small business participation in procurements as prime contractors.''.

SEC. 412. DEFINITION OF CONTRACT BUNDLING.

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

''(o) DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.—In this Act:

''(1) BUNDLED CONTRACT.—The term 'bundled contract' means a contract that is entered into to meet requirements that are consolidated in a bundling of contract requirements.

''(2) BUNDLING OF CONTRACT REQUIREMENTS.—The term 'bundling of contract requirements' means consolidating 2 or more procurement requirements for goods or services previously provided or performed under separate smaller contracts into a solicitation of offers for a single contract that is likely to be unsuitable for award to a small-business concern due to—

''(A) the diversity, size, or specialized nature of the elements of the performance specified;

''(B) the aggregate dollar value of the anticipated award;

''(C) the geographical dispersion of the contract performance sites; or

''(D) any combination of the factors described in subparagraphs (A), (B), and (C).

''(3) SEPARATE SMALLER CONTRACT.—The term 'separate smaller contract', with respect to a bundling of contract requirements, means a contract that has been performed by 1 or more small business concerns or was suitable for award to 1 or more small business concerns.''.

SEC. 413. ASSESSING PROPOSED CONTRACT BUNDLING.

(a) IN GENERAL.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended by inserting after subsection (d) the following:

''(e) PROCUREMENT STRATEGIES; CONTRACT BUNDLING.—

''(1) IN GENERAL.—To the maximum extent practicable, procurement strategies used by the various agencies having contracting authority shall facilitate the maximum participation of small business concerns as prime contractors, subcontractors, and suppliers.

''(2) MARKET RESEARCH.—

''(A) IN GENERAL.—Before proceeding with an acquisition strategy that could lead to a contract containing consolidated procurement requirements, the head of an agency shall conduct market research to determine whether consolidation of the requirements is necessary and justified.

''(B) FACTORS.—For purposes of subparagraph (A), consolidation of the requirements

may be determined as being necessary and justified if, as compared to the benefits that would be derived from contracting to meet those requirements if not consolidated, the Federal Government would derive from the consolidation measurably substantial benefits, including any combination of benefits that, in combination, are measurably substantial. Benefits described in the preceding sentence may include the following:

''(i) Cost savings.

''(ii) Quality improvements.

''(iii) Reduction in acquisition cycle times.

''(iv) Better terms and conditions.

''(v) Any other benefits.

''(C) REDUCTION OF COSTS NOT DETERMINATIVE.—The reduction of administrative or personnel costs alone shall not be a justification for bundling of contract requirements unless the cost savings are expected to be substantial in relation to the dollar value of the procurement requirements to be consolidated.

''(3) STRATEGY SPECIFICATIONS.—If the head of a contracting agency determines that a proposed procurement strategy for a procurement involves a substantial bundling of contract requirements, the proposed procurement strategy shall—

''(A) identify specifically the benefits anticipated to be derived from the bundling of contract requirements;

''(B) set forth an assessment of the specific impediments to participation by small business concerns as prime contractors that result from the bundling of contract requirements and specify actions designed to maximize small business participation as subcontractors (including suppliers) at various tiers under the contract or contracts that are awarded to meet the requirements; and

''(C) include a specific determination that the anticipated benefits of the proposed bundled contract justify its use.

''(4) CONTRACT TEAMING.—In the case of a solicitation of offers for a bundled contract that is issued by the head of an agency, a small-business concern may submit an offer that provides for use of a particular team of subcontractors for the performance of the contract. The head of the agency shall evaluate the offer in the same manner as other offers, with due consideration to the capabilities of all of the proposed subcontractors. If a small business concern teams under this paragraph, it shall not affect its status as a small business concern for any other purpose.''.

(b) ADMINISTRATION REVIEW.—Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended in the third sentence—

(1) by inserting ''or the solicitation involves an unnecessary or unjustified bundling of contract requirements, as determined by the Administration,'' after ''discrete construction projects,'';

(2) by striking ''or (4)'' and inserting ''(4)''; and

(3) by inserting before the period at the end of the sentence the following: '', or (5) why the agency has determined that the bundled contract (as defined in section 3(o)) is necessary and justified''.

(c) RESPONSIBILITIES OF AGENCY SMALL BUSINESS ADVOCATES.—Section 15(k) of the Small Business Act (15 U.S.C. 644(k)) is amended—

(1) by redesignating paragraphs (5) through (9) as paragraphs (6) through (10), respectively; and

(2) by inserting after paragraph (4) the following:

''(5) identify proposed solicitations that involve significant bundling of contract requirements, and work with the agency acquisition officials and the Administration to revise the procurement strategies for such proposed solicitations where appropriate to increase the probability of participation by small businesses as prime contractors, or to facilitate small business participation as subcontractors and suppliers, if a solicitation for a bundled contract is to be issued;''.

SEC. 414. REPORTING OF BUNDLED CONTRACT OPPORTUNITIES.

(a) DATA COLLECTION REQUIRED.—The Federal Procurement Data System described in section 6(d)(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4)(A)) shall be modified to collect data regarding bundling of contract requirements when the contracting officer anticipates that the resulting contract price, including all options, is expected to exceed $5,000,000. The data shall reflect a determination made by the contracting officer regarding whether a particular solicitation constitutes a contract bundling.

(b) DEFINITIONS.—In this section, the term ''bundling of contract requirements'' has the meaning given that term in section 3(o) of the Small Business Act (15 U.S.C. 632(o)) (as added by section 412 of this subtitle).

SEC. 415. EVALUATING SUBCONTRACT PARTICIPATION IN AWARDING CONTRACTS.

Section 8(d)(4) of the Small Business Act (15 U.S.C. 637(d)(4)) is amended by adding at the end the following:

''(G) The following factors shall be designated by the Federal agency as significant factors for purposes of evaluating offers for a bundled contract where the head of the agency determines that the contract offers a significant opportunity for subcontracting:

''(i) A factor that is based on the rate provided under the subcontracting plan for small business participation in the performance of the contract.

''(ii) For the evaluation of past performance of an offeror, a factor that is based on the extent to which the offeror attained applicable goals for small business participation in the performance of contracts.''.

SEC. 416. IMPROVED NOTICE OF SUBCONTRACTING OPPORTUNITIES.

(a) USE OF THE COMMERCE BUSINESS DAILY AUTHORIZED.—Section 8 of the Small Business Act (15 U.S.C. 637) is amended by adding at the end the following:

''(k) NOTICES OF SUBCONTRACTING OPPORTUNITIES.—

''(1) IN GENERAL.—Notices of subcontracting opportunities may be submitted for publication in the Commerce Business Daily by—

''(A) a business concern awarded a contract by an executive agency subject to subsection (e)(1)(C); and

''(B) a business concern that is a subcontractor or supplier (at any tier) to such contractor having a subcontracting opportunity in excess of $10,000.

''(2) CONTENT OF NOTICE.—The notice of a subcontracting opportunity shall include—

''(A) a description of the business opportunity that is comparable to the description specified in paragraphs (1), (2), (3), and (4) of subsection (f); and

''(B) the due date for receipt of offers.''.

(b) REGULATIONS REQUIRED.—The Federal Acquisition Regulation shall be amended to provide uniform implementation of the amendments made by this section.

(c) CONFORMING AMENDMENT.—Section 8(e)(1)(C) of the Small Business Act (15 U.S.C. 637(e)(1)(C)) is amended by striking ''$25,000'' each place that term appears and inserting ''$100,000''.

SEC. 417. DEADLINES FOR ISSUANCE OF REGULATIONS.

(a) PROPOSED REGULATIONS.—Proposed amendments to the Federal Acquisition Regulation or proposed Small Business Administration regulations under this subtitle and the amendments made by this subtitle shall be published not later than 120 days after the date of enactment of this Act for the purpose of obtaining public comment pursuant to section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b), or chapter 5 of title 5, United States Code, as appropriate. The public shall be afforded not less than 60 days to submit comments.

(b) FINAL REGULATIONS.—Final regulations shall be published not later than 270 days after the date of enactment of this Act. The effective date for such final regulations shall be not less than 30 days after the date of publication.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAM.

(a) REQUIRED EXPENDITURES.—Section 9(n) of the Small Business Act (15 U.S.C. 638(n)) is amended by striking paragraph (1) and inserting the following:

''(1) REQUIRED EXPENDITURE AMOUNTS.—With respect to fiscal years 1998, 1999, 2000, and 2001, each Federal agency that has an extramural budget for research, or research and development, in excess of $1,000,000,000 for that fiscal year, is authorized to expend with small business concerns not less than 0.15 percent of that extramural budget specifically in connection with STTR programs that meet the requirements of this section and any policy directives and regulations issued under this section.''.

(b) REPORTS AND OUTREACH.—

(1) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(A) in subsection (o)—

(i) by redesignating paragraphs (8) through (11) as paragraphs (10) through (13), respectively; and

(ii) by inserting after paragraph (7) the following:

''(8) include, as part of its annual performance plan as required by subsections (a) and (b) of section 1115 of title 31, United States Code, a section on its STTR program, and shall submit such section to the Committee on Small Business of the Senate, and the Committee on Science and the Committee on Small Business of the House of Representatives;

''(9) collect such data from awardees as is necessary to assess STTR program outputs and outcomes;'';

(B) in subsection (e)(4)(A), by striking ''(ii)''; and

(C) by adding at the end the following:

''(s) OUTREACH.—

''(1) DEFINITION OF ELIGIBLE STATE.—In this subsection, the term 'eligible State' means a State—

''(A) if the total value of contracts awarded to the State during fiscal year 1995 under this section was less than $5,000,000; and

''(B) that certifies to the Administration described in paragraph (2) that the State will, upon receipt of assistance under this subsection, provide matching funds from non-Federal sources in an amount that is not less than 50 percent of the amount provided under this subsection.

''(2) PROGRAM AUTHORITY.—Of amounts made available to carry out this section for fiscal year 1998, 1999, 2000, or 2001 the Administrator may expend with eligible States not more than $2,000,000 in each such fiscal year in order to increase the participation of small business concerns located in those States in the programs under this section.

''(3) AMOUNT OF ASSISTANCE.—The amount of assistance provided to an eligible State under this subsection in any fiscal year—

''(A) shall be equal to twice the total amount of matching funds from non-Federal sources provided by the State; and

''(B) shall not exceed $100,000.

''(4) USE OF ASSISTANCE.—Assistance provided to an eligible State under this subsection shall be used by the State, in consultation with State and local departments and agencies, for programs and activities to increase the participation of small business concerns located in the State in the programs under this section, including—

''(A) the establishment of quantifiable performance goals, including goals relating to—

''(i) the number of program awards under this section made to small business concerns in the State; and

''(ii) the total amount of Federal research and development contracts awarded to small business concerns in the State;

''(B) the provision of competition outreach support to small business concerns in the State that are involved in research and development; and

''(C) the development and dissemination of educational and promotional information relating to the programs under this section to small business concerns in the State.

''(t) INCLUSION IN STRATEGIC PLANS.—Program information relating to the SBIR and STTR programs shall be included by each Federal agency in any update or revision required of the Federal agency under section 306(b) of title 5, United States Code.''.

(2) REPEAL.—Effective October 1, 2001, section 9(s) of the Small Business Act (as added by paragraph (1) of this subsection) is repealed.

SEC. 502. SMALL BUSINESS DEVELOPMENT CENTERS.

(a) IN GENERAL.—Section 21(a) of the Small Business Act (15 U.S.C. 648(a)) is amended—

(1) in paragraph (1)—

(A) by inserting ''any women's business center operating pursuant to section 29,'' after ''credit or finance corporation,'';

(B) by inserting ''or a women's business center operating pursuant to section 29'' after ''other than an institution of higher education''; and

(C) by inserting ''and women's business centers operating pursuant to section 29'' after ''utilize institutions of higher education'';

(2) in paragraph (3)—

(A) by striking '', but with'' and all that follows through ''parties.'' and inserting the following: ''for the delivery of programs and services to the small business community. Such programs and services shall be jointly developed, negotiated, and agreed upon, with full participation of both parties, pursuant to an executed cooperative agreement between the Small Business Development Center applicant and the Administration.''; and

(B) by adding at the end the following:

''(C) On an annual basis, the Small Business Development Center shall review and coordinate public and private partnerships and cosponsorships with the Administration for the purpose of more efficiently leveraging available resources on a National and a State basis.'';

(3) in paragraph (4)(C)—

(A) by striking clause (i) and inserting the following:

''(i) IN GENERAL.—

''(I) GRANT AMOUNT.—Subject to subclauses (II) and (III), the amount of a grant received by a State under this section shall be equal to the greater of $500,000, or the sum of—

''(aa) the State's pro rata share of the national program, based upon the population of the State as compared to the total population of the United States; and

''(bb) $300,000 in fiscal year 1998, $400,000 in fiscal year 1999, and $500,000 in each fiscal year thereafter.

''(II) PRO RATA REDUCTIONS.—If the amount made available to carry out this section for any fiscal year is insufficient to carry out subclause (I)(bb), the Administration shall make pro rata reductions in the amounts otherwise payable to States under subclause (I)(bb).

''(III) MATCHING REQUIREMENT.—The amount of a grant received by a State under this section shall not exceed the amount of matching funds from sources other than the Federal Government provided by the State under subparagraph (A).''; and

(B) in clause (iii), by striking ''(iii)'' and all that follows through ''1997.'' and inserting the following:

''(iii) NATIONAL PROGRAM.—There are authorized to be appropriated to carry out the national program under this section—

''(I) $85,000,000 for fiscal year 1998;

''(II) $90,000,000 for fiscal year 1999; and

''(III) $95,000,000 for fiscal year 2000 and each fiscal year thereafter.''; and

(4) in paragraph (6)—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) in subparagraph (B), by striking the comma at the end and inserting ''; and''; and

(C) inserting after subparagraph (B) the following:

''(C) with outreach, development, and enhancement of minority-owned small business startups or expansions, HUBZone small business concerns, veteran-owned small business startups or expansions, and women-owned small business startups or expansions, in communities impacted by base closings or military or corporate downsizing, or in rural or underserved communities;''.

(b) SBDC SERVICES.—Section 21(c) of the Small Business Act (15 U.S.C. 648(c)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking ''businesses;'' and inserting ''businesses, including—

''(i) working with individuals to increase awareness of basic credit practices and credit requirements;

''(ii) working with individuals to development business plans, financial packages, credit applications, and contract proposals;

''(iii) working with the Administration to develop and provide informational tools for use in working with individuals on pre-business startup planning, existing business expansion, and export planning; and

''(iv) working with individuals referred by the local offices of the Administration and Administration participating lenders;'';

(B) in each of subparagraphs (B), (C), (D), (E), (F), (G), (M), (N), (O), (Q), and (R) by moving each margin 2 ems to the left; and

(C) in subparagraph (C), by inserting ''and the Administration'' after ''Center'';

(2) in paragraph (5)—

(A) by moving the margin 2 ems to the right;

(B) by striking ''paragraph (a)(1)'' and inserting ''subsection (a)(1)'';

(C) by striking ''which ever'' and inserting ''whichever''; and

(D) by striking ''last,,'' and inserting ''last,'';

(3) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively; and

(4) in paragraph (3), in the undesignated material following subparagraph (R), by striking ''A small'' and inserting the following:

''(4) A small''.

(c) COMPETITIVE AWARDS.—Section 21(l) of the Small Business Act (15 U.S.C. 648(l)) is amended by adding at the end the following: ''If any contract or cooperative agreement under this section with an entity that is covered by this section is not renewed or extended, any award of a successor contract or cooperative agreement under this section to another entity shall be made on a competitive basis.''.

(d) PROHIBITION ON CERTAIN FEES.—Section 21 of the Small Business Act (15 U.S.C. 648) is amended by adding at the end the following:

''(m) PROHIBITION ON CERTAIN FEES.—A small business development center shall not impose or otherwise collect a fee or other compensation in connection with the provision of counseling services under this section.''.

SEC. 503. PILOT PREFERRED SURETY BOND GUARANTEE PROGRAM EXTENSION.

Section 207 of the Small Business Administration Reauthorization and Amendment Act of 1988 (15 U.S.C. 694b note) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2000''.

SEC. 504. EXTENSION OF COSPONSORSHIP AUTHORITY.

Section 401(a)(2) of the Small Business Administration Reauthorization and Amendments Act of 1994 (15 U.S.C. 637 note) is amended by striking ''September 30, 1997'' and inserting ''September 30, 2000''.

SEC. 505. ASSET SALES.

In connection with the Administration's implementation of a program to sell to the private sector loans and other assets held by the Administration, the Administration shall provide to the Committees a copy of the draft and final plans describing the sale and the anticipated benefits resulting from such sale.

SEC. 506. SMALL BUSINESS EXPORT PROMOTION.

(a) IN GENERAL.—Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (Q), by striking ''and'' at the end;

(2) in subparagraph (R), by striking the period at the end and inserting ''; and''; and

(3) by inserting after subparagraph (R) the following:

''(S) providing small business owners with access to a wide variety of export-related information by establishing on-line computer linkages between small business development centers and an international trade data information network with ties to the Export Assistance Center program.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out section 21(c)(3)(S) of the Small Business Act (15 U.S.C. 648(c)(3)(S)), as added by this section, $1,500,000 for each fiscal years 1998 and 1999.

SEC. 507. DEFENSE LOAN AND TECHNICAL ASSISTANCE PROGRAM.

(a) DELTA PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Administrator may administer the Defense Loan and Technical Assistance program in accordance with the authority and requirements of this section.

(2) EXPIRATION OF AUTHORITY.—The authority of the Administrator to carry out the DELTA program under paragraph (1) shall terminate when the funds referred to in subsection (g)(1) have been expended.

(3) DELTA PROGRAM DEFINED.—In this section, the terms ''Defense Loan and Technical Assistance program'' and ''DELTA program'' mean the Defense Loan and Technical Assistance program that has been established by a memorandum of understanding entered into by the Administrator and the Secretary of Defense on June 26, 1995.

(b) ASSISTANCE.—

(1) AUTHORITY.—Under the DELTA program, the Administrator may assist small business concerns that are economically dependent on defense expenditures to acquire dual-use capabilities.

(2) FORMS OF ASSISTANCE.—Forms of assistance authorized under paragraph (1) are as follows:

(A) LOAN GUARANTEES.—Loan guarantees under the terms and conditions specified under this section and other applicable law.

(B) NONFINANCIAL ASSISTANCE.—Other forms of assistance that are not financial.

(c) ADMINISTRATION OF PROGRAM.—In the administration of the DELTA program under this section, the Administrator shall—

(1) process applications for DELTA program loan guarantees;

(2) guarantee repayment of the resulting loans in accordance with this section; and

(3) take such other actions as are necessary to administer the program.

(d) SELECTION AND ELIGIBILITY REQUIREMENTS FOR DELTA LOAN GUARANTEES.—

(1) IN GENERAL.—The selection criteria and eligibility requirements set forth in this subsection shall be applied in the selection of small business concerns to receive loan guarantees under the DELTA program.

(2) SELECTION CRITERIA.—The criteria used for the selection of a small business concern to receive a loan guarantee under this section are as follows:

(A) The selection criteria established under the memorandum of understanding referred to in subsection (a)(3).

(B) The extent to which the loans to be guaranteed would support the retention of defense workers whose employment would otherwise be permanently or temporarily terminated as a result of reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

(C) The extent to which the loans to be guaranteed would stimulate job creation and new economic activities in communities most adversely affected by reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

(D) The extent to which the loans to be guaranteed would be used to acquire (or permit the use of other funds to acquire) capital equipment to modernize or expand the facilities of the borrower to enable the borrower to remain in the national technology and industrial base available to the Department of Defense.

(3) ELIGIBILITY REQUIREMENTS.—To be eligible for a loan guarantee under the DELTA program, a borrower must demonstrate to the satisfaction of the Administrator that, during any 1 of the 5 preceding operating years of the borrower, not less than 25 percent of the value of the borrower's sales were derived from—

(A) contracts with the Department of Defense or the defense-related activities of the Department of Energy; or

(B) subcontracts in support of defense-related prime contracts.

(e) MAXIMUM AMOUNT OF LOAN PRINCIPAL.—With respect to each borrower, the maximum amount of loan principal for which the Administrator may provide a guarantee under this section during a fiscal year may not exceed $1,250,000.

(f) LOAN GUARANTY RATE.—The maximum allowable guarantee percentage for loans guaranteed under this section may not exceed 80 percent.

(g) FUNDING.—

(1) IN GENERAL.—The funds that have been made available for loan guarantees under the DELTA program and have been transferred from the Department of Defense to the Small Business Administration before the date of the enactment of this Act shall be used for carrying out the DELTA program under this section.

(2) CONTINUED AVAILABILITY OF EXISTING FUNDS.—The funds made available under the second proviso under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'' in Public Law 103–335 (108 Stat. 2613) shall be available until expended—

(A) to cover the costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees issued under this section; and

(B) to cover the reasonable costs of the administration of the loan guarantees.

SEC. 508. VERY SMALL BUSINESS CONCERNS.

Section 304(i) of the Small Business Administration Reauthorization and Amendments Act of 1994 (15 U.S.C. 644 note) is amended by striking ''September 30, 1998'' and inserting ''September 30, 2000''.

SEC. 509. TRADE ASSISTANCE PROGRAM FOR SMALL BUSINESS CONCERNS ADVERSELY AFFECTED BY NAFTA.

The Administrator shall coordinate Federal assistance in order to provide counseling to small business concerns adversely affected by the North American Free Trade Agreement.

TITLE VI—HUBZONE PROGRAM

SEC. 601. SHORT TITLE.

This title may be cited as the ''HUBZone Act of 1997''.

SEC. 602. HISTORICALLY UNDERUTILIZED BUSINESS ZONES.

(a) DEFINITIONS.—Section 3 of the Small Business Act (15 U.S.C. 632) (as amended by section 412 of this Act) is amended by adding at the end the following:

''(p) DEFINITIONS RELATING TO HUBZONES.—In this Act:

''(1) HISTORICALLY UNDERUTILIZED BUSINESS ZONE.—The term 'historically underutilized business zone' means any area located within 1 or more—

''(A) qualified census tracts;

''(B) qualified nonmetropolitan counties; or

''(C) lands within the external boundaries of an Indian reservation.

''(2) HUBZONE.—The term 'HUBZone' means a historically underutilized business zone.

''(3) HUBZONE SMALL BUSINESS CONCERN.—The term 'HUBZone small business concern' means a small business concern—

''(A) that is owned and controlled by 1 or more persons, each of whom is a United States citizen; and

''(B) the principal office of which is located in a HUBZone; or

''(4) QUALIFIED AREAS.—

''(A) QUALIFIED CENSUS TRACT.—The term 'qualified census tract' has the meaning given that term in section 42(d)(5)(C)(ii)(I) of the Internal Revenue Code of 1986.

''(B) QUALIFIED NONMETROPOLITAN COUNTY.—The term 'qualified nonmetropolitan county' means any county—

''(i) that, based on the most recent data available from the Bureau of the Census of the Department of Commerce—

''(I) is not located in a metropolitan statistical area (as defined in section 143(k)(2)(B) of the Internal Revenue Code of 1986); and

''(II) in which the median household income is less than 80 percent of the nonmetropolitan State median household income; or

''(ii) that, based on the most recent data available from the Secretary of Labor, has an unemployment rate that is not less than 140 percent of the statewide average unemployment rate for the State in which the county is located.

''(5) QUALIFIED HUBZONE SMALL BUSINESS CONCERN.—

''(A) IN GENERAL.—A HUBZone small business concern is 'qualified', if—

''(i) the small business concern has certified in writing to the Administrator (or the Administrator otherwise determines, based on information submitted to the Administrator by the small business concern, or based on certification procedures, which shall be established by the Administration by regulation) that—

''(I) it is a HUBZone small business concern;

''(II) not less than 35 percent of the employees of the small business concern reside in a HUBZone, and the small business concern will attempt to maintain this employment percentage during the performance of any contract awarded to the small business concern on the basis of a preference provided under section 31(b); and

''(III) with respect to any subcontract entered into by the small business concern pursuant to a contract awarded to the small business concern under section 31, the small business concern will ensure that—

''(aa) in the case of a contract for services (except construction), not less than 50 percent of the cost of contract performance incurred for personnel will be expended for its employees or for employees of other HUBZone small business concerns; and

''(bb) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), not less than 50 percent of the cost of manufacturing the supplies (not including the cost of materials) will be incurred in connection with the performance of the contract in a HUBZone by 1 or more HUBZone small business concerns; and

''(ii) no certification made or information provided by the small business concern under clause (i) has been, in accordance with the procedures established under section 31(c)(1)—

''(I) successfully challenged by an interested party; or

''(II) otherwise determined by the Administrator to be materially false.

''(B) CHANGE IN PERCENTAGES.—The Administrator may utilize a percentage other than the percentage specified in under item (aa) or (bb) of subparagraph (A)(i)(III), if the Administrator determines that such action is necessary to reflect conventional industry practices among small business concerns that are below the numerical size standard for businesses in that industry category.

''(C) CONSTRUCTION AND OTHER CONTRACTS.—The Administrator shall promulgate final regulations imposing requirements that are similar to those specified in subclauses (IV) and (V) of subparagraph (A)(i) on contracts for general and specialty construction, and on contracts for any other industry category that would not otherwise be subject to those requirements. The percentage applicable to any such requirement shall be determined in accordance with subparagraph (B).

''(D) LIST OF QUALIFIED SMALL BUSINESS CONCERNS.—The Administrator shall establish and maintain a list of qualified HUBZone small business concerns, which list shall, to the extent practicable—

''(i) include the name, address, and type of business with respect to each such small business concern;

''(ii) be updated by the Administrator not less than annually; and

''(iii) be provided upon request to any Federal agency or other entity.''.

(b) FEDERAL CONTRACTING.—

(1) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(A) by redesignating section 31 as section 32; and

(B) by inserting after section 30 the following:

''SEC. 31. HUBZONE PROGRAM.

''(a) IN GENERAL.—There is established within the Administration a program to be

carried out by the Administrator to provide for Federal contracting assistance to qualified HUBZone small business concerns in accordance with this section.

''(b) ELIGIBLE CONTRACTS.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'contracting officer' has the meaning given that term in section 27(f)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)(5)); and

''(B) the term 'full and open competition' has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

''(2) AUTHORITY OF CONTRACTING OFFICER.—Notwithstanding any other provision of law—

''(A) a contracting officer may award sole source contracts under this section to any qualified HUBZone small business concern, if—

''(i) the qualified HUBZone small business concern is determined to be a responsible contractor with respect to performance of such contract opportunity, and the contracting officer does not have a reasonable expectation that 2 or more qualified HUBZone small business concerns will submit offers for the contracting opportunity;

''(ii) the anticipated award price of the contract (including options) will not exceed—

''(I) $5,000,000, in the case of a contract opportunity assigned a standard industrial classification code for manufacturing; or

''(II) $3,000,000, in the case of all other contract opportunities; and

''(iii) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price;

''(B) a contract opportunity shall be awarded pursuant to this section on the basis of competition restricted to qualified HUBZone small business concerns if the contracting officer has a reasonable expectation that not less than 2 qualified HUBZone small business concerns will submit offers and that the award can be made at a fair market price; and

''(C) not later than 5 days from the date the Administration is notified of a procurement officer's decision not to award a contract opportunity under this section to a qualified HUBZone small business concern, the Administrator may notify the contracting officer of the intent to appeal the contracting officer's decision, and within 15 days of such date the Administrator may file a written request for reconsideration of the contracting officer's decision with the Secretary of the department or agency head.

''(3) PRICE EVALUATION PREFERENCE IN FULL AND OPEN COMPETITIONS.—In any case in which a contract is to be awarded on the basis of full and open competition, the price offered by a qualified HUBZone small business concern shall be deemed as being lower than the price offered by another offeror (other than another small business concern), if the price offered by the qualified HUBZone small business concern is not more than 10 percent higher than the price offered by the otherwise lowest, responsive, and responsible offeror.

''(4) RELATIONSHIP TO OTHER CONTRACTING PREFERENCES.—A procurement may not be made from a source on the basis of a preference provided in paragraph (2) or (3), if the procurement would otherwise be made from a different source under section 4124 or 4125 of title 18, United States Code, or the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

''(c) ENFORCEMENT; PENALTIES.—

''(1) VERIFICATION OF ELIGIBILITY.—In carrying out this section, the Administrator shall establish procedures relating to—

''(A) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a small business concern to receive assistance under this section (including a challenge, filed by an interested party, relating to the veracity of a certification made or information provided to the Administration by a small business concern under section 3(p)(5)); and

''(B) verification by the Administrator of the accuracy of any certification made or information provided to the Administration by a small business concern under section 3(p)(5).

''(2) EXAMINATIONS.—The procedures established under paragraph (1) may provide for program examinations (including random program examinations) by the Administrator of any small business concern making a certification or providing information to the Administrator under section 3(p)(5).

''(3) PROVISION OF DATA.—Upon the request of the Administrator, the Secretary of Labor, the Secretary of Housing and Urban Development, and the Secretary of the Interior (or the Assistant Secretary for Indian Affairs), shall promptly provide to the Administrator such information as the Administrator determines to be necessary to carry out this subsection.

''(4) PENALTIES.—In addition to the penalties described in section 16(d), any small business concern that is determined by the Administrator to have misrepresented the status of that concern as a 'HUBZone small business concern' for purposes of this section, shall be subject to—

''(A) section 1001 of title 18, United States Code; and

''(B) sections 3729 through 3733 of title 31, United States Code.''.

(2) INITIAL LIMITED APPLICABILITY.—During the period beginning on the date of enactment of this Act and ending on September 30, 2000, section 31 of the Small Business Act (as added by paragraph (1) of this subsection) shall apply only to procurements by—

(A) the Department of Defense;

(B) the Department of Agriculture;

(C) the Department of Health and Human Services;

(D) the Department of Transportation;

(E) the Department of Energy;

(F) the Department of Housing and Urban Development;

(G) the Environmental Protection Agency;

(H) the National Aeronautics and Space Administration;

(I) the General Services Administration; and

(J) the Department of Veterans Affairs.

SEC. 603. TECHNICAL AND CONFORMING AMENDMENTS TO THE SMALL BUSINESS ACT.

(a) PERFORMANCE OF CONTRACTS.—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking '',, small business concerns owned and controlled by socially and economically disadvantaged individuals'' and inserting '', qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals''; and

(B) in the second sentence, by inserting ''qualified HUBZone small business concerns,'' after ''small business concerns,'';

(2) in paragraph (3)—

(A) by inserting ''qualified HUBZone small business concerns,'' after ''small business concerns,'' each place that term appears; and

(B) by adding at the end the following:

''(F) In this contract, the term 'qualified HUBZone small business concern' has the meaning given that term in section 3(p) of the Small Business Act.'';

(3) in paragraph (4)(E), by striking ''small business concerns and'' and inserting ''small business concerns, qualified HUBZone small business concerns, and'';

(4) in paragraph (6), by inserting ''qualified HUBZone small business concerns,'' after ''small business concerns,'' each place that term appears; and

(5) in paragraph (10), by inserting ''qualified HUBZone small business concerns,'' after ''small business concerns,''.

(b) AWARDS OF CONTRACTS.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) in subsection (g)(1)—

(A) by inserting ''qualified HUBZone small business concerns,'' after ''small business concerns,'' each place that term appears;

(B) in the second sentence, by striking ''20 percent'' and inserting ''23 percent''; and

(C) by inserting after the second sentence the following: ''The Governmentwide goal for participation by qualified HUBZone small business concerns shall be established at not less than 1 percent of the total value of all prime contract awards for fiscal year 1999, not less than 1.5 percent of the total value of all prime contract awards for fiscal year 2000, not less than 2 percent of the total value of all prime contract awards for fiscal year 2001, not less than 2.5 percent of the total value of all prime contract awards for fiscal year 2002, and not less than 3 percent of the total value of all prime contract awards for fiscal year 2003 and each fiscal year thereafter.'';

(2) in subsection (g)(2)—

(A) in the first sentence, by striking '',, by small business concerns owned and controlled by socially and economically disadvantaged individuals'' and inserting '', by qualified HUBZone small business concerns, by small business concerns owned and controlled by socially and economically disadvantaged individuals'';

(B) in the second sentence, by inserting ''qualified HUBZone small business concerns,'' after ''small business concerns,''; and

(C) in the fourth sentence, by striking ''by small business concerns owned and controlled by socially and economically disadvantaged individuals and participation by small business concerns owned and controlled by women'' and inserting ''by qualified HUBZone small business concerns, by small business concerns owned and controlled by socially and economically disadvantaged individuals, and by small business concerns owned and controlled by women''; and

(3) in subsection (h), by inserting ''qualified HUBZone small business concerns,'' after ''small business concerns,'' each place that term appears.

(c) OFFENSES AND PENALTIES.—Section 16 of the Small Business Act (15 U.S.C. 645) is amended—

(1) in subsection (d)(1)—

(A) by inserting '', a 'qualified HUBZone small business concern','' after '''small business concern',''; and

(B) in subparagraph (A), by striking ''section 9 or 15'' and inserting ''section 9, 15, or 31''; and

(2) in subsection (e), by inserting '', a 'HUBZone small business concern','' after '''small business concern',''.

SEC. 604. OTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Section 2323 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by inserting before the semicolon the following: '', and qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act)''; and

(2) in subsection (f)(1), by inserting ''or as a qualified HUBZone small business concern

(as defined in section 3(p) of the Small Business Act)'' after ''(as described in subsection (a))''.

(b) FEDERAL HOME LOAN BANK ACT.—Section 21A(b)(13) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(13)) is amended—

(1) by striking ''concerns and small'' and inserting ''concerns, small''; and

(2) by inserting '', and qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act)'' after ''disadvantaged individuals''.

(c) SMALL BUSINESS ECONOMIC POLICY ACT OF 1980.—Section 303(e) of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631b(e)) is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act).''.

(d) SMALL BUSINESS INVESTMENT ACT OF 1958.—Section 411(c)(3)(B) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(c)(3)(B)) is amended by inserting before the semicolon the following: '', or to a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act)''.

(e) TITLE 31, UNITED STATES CODE.—

(1) CONTRACTS FOR COLLECTION SERVICES.—Section 3718(b) of title 31, United States Code, is amended—

(A) in paragraph (1)(B), by inserting ''and law firms that are qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act)'' after ''disadvantaged individuals''; and

(B) in paragraph (3)—

(i) in the first sentence, by inserting before the period ''and law firms that are qualified HUBZone small business concerns'';

(ii) in subparagraph (A), by striking ''and'' at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(C) the term 'qualified HUBZone small business concern' has the meaning given that term in section 3(p) of the Small Business Act.''.

(2) PAYMENTS TO LOCAL GOVERNMENTS.—Section 6701(f) of title 31, United States Code, is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''and'' at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(C) qualified HUBZone small business concerns.''; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking ''and'' at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(C) the term 'qualified HUBZone small business concern' has the meaning given that term in section 3(p) of the Small Business Act (15 U.S.C. 632(o)).''.

(3) REGULATIONS.—Section 7505(c) of title 31, United States Code, is amended by striking ''small business concerns and'' and inserting ''small business concerns, qualified HUBZone small business concerns, and''.

(f) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—

(1) ENUMERATION OF INCLUDED FUNCTIONS.—Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)) is amended—

(A) in paragraph (11), by inserting ''qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act),'' after ''small businesses,''; and

(B) in paragraph (12), by inserting ''qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act (15 U.S.C. 632(o)),'' after ''small businesses,''.

(2) PROCUREMENT DATA.—Section 502 of the Women's Business Ownership Act of 1988 (41 U.S.C. 417a) is amended—

(A) in subsection (a)—

(i) in the first sentence, by inserting ''the number of qualified HUBZone small business concerns,'' after ''Procurement Policy''; and

(ii) by inserting a comma after ''women''; and

(B) in subsection (b), by inserting after ''section 204 of this Act'' the following: '', and the term 'qualified HUBZone small business concern' has the meaning given that term in section 3(p) of the Small Business Act (15 U.S.C. 632(o)).''.

(g) ENERGY POLICY ACT OF 1992.—Section 3021 of the Energy Policy Act of 1992 (42 U.S.C. 13556) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''or'';

(B) in paragraph (3), by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(4) qualified HUBZone small business concerns.''; and

(2) in subsection (b), by adding at the end the following:

''(3) The term 'qualified HUBZone small business concern' has the meaning given that term in section 3(p) of the Small Business Act (15 U.S.C. 632(o)).''.

(h) TITLE 49, UNITED STATES CODE.—

(1) PROJECT GRANT APPLICATION APPROVAL CONDITIONED ON ASSURANCES ABOUT AIRPORT OPERATION.—Section 47107(e) of title 49, United States Code, is amended—

(A) in paragraph (1), by inserting before the period ''or qualified HUBZone small business concerns (as defined in section 3(p) of the Small Business Act)'';

(B) in paragraph (4)(B), by inserting before the period ''or as a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act)''; and

(C) in paragraph (6), by inserting ''or a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act)'' after ''disadvantaged individual''.

(2) MINORITY AND DISADVANTAGED BUSINESS PARTICIPATION.—Section 47113 of title 49, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking the period at the end and inserting a semicolon;

(ii) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(3) the term 'qualified HUBZone small business concern' has the meaning given that term in section 3(p) of the Small Business Act (15 U.S.C. 632(o)).''; and

(B) in subsection (b), by inserting before the period ''or qualified HUBZone small business concerns''.

SEC. 605. REGULATIONS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register such final regulations as may be necessary to carry out this title and the amendments made by this title.

(b) FEDERAL ACQUISITION REGULATION.—Not later than 180 days after the date on which final regulations are published under subsection (a), the Federal Acquisition Regulatory Council shall amend the Federal Acquisition Regulation in order to ensure consistency between the Federal Acquisition Regulation, this title and the amendments made by this title, and the final regulations published under subsection (a).

SEC. 606. REPORT.

Not later than March 1, 2002, the Administrator shall submit to the Committees a report on the implementation of the HUBZone program established under section 31 of the Small Business Act (as added by section 602(b) of this title) and the degree to which the HUBZone program has resulted in increased employment opportunities and an increased level of investment in HUBZones (as defined in section 3(p) of the Small Business Act (15 U.S.C. 632(p)), as added by section 602(a) of this title).

SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) (as amended by section 101 of this Act) is amended—

(1) in subsection (c), by adding at the end the following:

''(3) HUBZONE PROGRAM.—There are authorized to be appropriated to the Administration to carry out the program under section 31, $5,000,000 for fiscal year 1998.'';

(2) in subsection (d), by adding at the end the following:

''(3) HUBZONE PROGRAM.—There are authorized to be appropriated to the Administration to carry out the program under section 31, $5,000,000 for fiscal year 1999.''; and

(3) in subsection (e), by adding at the end the following:

''(3) HUBZONE PROGRAM.—There are authorized to be appropriated to the Administration to carry out the program under section 31, $5,000,000 for fiscal year 2000.''.

TITLE VII—SERVICE DISABLED VETERANS

SEC. 701. PURPOSES.

The purposes of this title are—

(1) to foster enhanced entrepreneurship among eligible veterans by providing increased opportunities;

(2) to vigorously promote the legitimate interests of small business concerns owned and controlled by eligible veterans; and

(3) to ensure that those concerns receive fair consideration in purchases made by the Federal Government.

SEC. 702. DEFINITIONS.

In this title:

(1) ELIGIBLE VETERAN.—The term ''eligible veteran'' means a disabled veteran (as defined in section 4211(3) of title 38, United States Code).

(2) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY ELIGIBLE VETERANS.—The term ''small business concern owned and controlled by eligible veterans'' means a small business concern (as defined in section 3 of the Small Business Act)—

(A) that is at least 51 percent owned by 1 or more eligible veterans, or in the case of a publicly owned business, at least 51 percent of the stock of which is owned by 1 or more eligible veterans; and

(B) whose management and daily business operations are controlled by eligible veterans.

SEC. 703. REPORT BY SMALL BUSINESS ADMINISTRATION.

(a) STUDY AND REPORT.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Administrator shall conduct a comprehensive study and submit to the Committees a final report containing findings and recommendations of the Administrator on—

(A) the needs of small business concerns owned and controlled by eligible veterans;

(B) the availability and utilization of Administration programs by small business concerns owned and controlled by eligible veterans;

(C) the percentage, and dollar value, of Federal contracts awarded to small business

concerns owned and controlled by eligible veterans in the preceding 5 fiscal years; and

(D) methods to improve Administration and other agency programs to serve the needs of small business concerns owned and controlled by eligible veterans.

(2) CONTENTS.—The report under paragraph (1) shall include recommendations to Congress concerning the need for legislation and recommendations to the Office of Management and Budget, relevant offices within the Administration, and the Department of Veterans Affairs.

(b) CONDUCT OF STUDY.—In carrying out subsection (a), the Administrator—

(1) may conduct surveys of small business concerns owned and controlled by eligible veterans and service disabled veterans, including those who have sought financial assistance or other services from the Administration;

(2) shall consult with the appropriate committees of Congress, relevant groups and organizations in the nonprofit sector, and Federal or State government agencies; and

(3) shall have access to any information within other Federal agencies that pertains to such veterans and their small businesses, unless such access is specifically prohibited by law.

SEC. 704. INFORMATION COLLECTION.

After the date of issuance of the report required by section 703(a), the Secretary of Veterans Affairs shall, in consultation with the Assistant Secretary for Veterans' Employment and Training and the Administrator, engage in efforts each fiscal year to identify small business concerns owned and controlled by eligible veterans in the United States. The Secretary shall inform each small business concern identified under this section that information on Federal procurement is available from the Administrator.

SEC. 705. STATE OF SMALL BUSINESS REPORT.

Section 303(b) of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631b(b)) is amended by striking ''and female-owned businesses'' and inserting '', female-owned, and veteran-owned businesses''.

SEC. 706. LOANS TO VETERANS.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by inserting after paragraph (7) the following:

''(8) The Administration may make loans under this subsection to small business concerns owned and controlled by disabled veterans (as defined in section 4211(3) of title 38, United States Code).''.

SEC. 707. ENTREPRENEURIAL TRAINING, COUNSELING, AND MANAGEMENT ASSISTANCE.

The Administrator shall take such actions as may be necessary to ensure that small business concerns owned and controlled by eligible veterans have access to programs established under the Small Business Act that provide entrepreneurial training, business development assistance, counseling, and management assistance to small business concerns, including, among others, the Small Business Development Center program and the Service Corps of Retired Executives (SCORE) program.

SEC. 708. GRANTS FOR ELIGIBLE VETERANS' OUTREACH PROGRAMS.

Section 8(b) of the Small Business Act (15 U.S.C. 637(b)) is amended—

(1) in paragraph (15), by striking ''and'' at the end;

(2) in the first paragraph designated as paragraph (16), by striking the period at the end and inserting ''; and''; and

(3) by striking the second paragraph designated as paragraph (16) and inserting the following:

''(17) to make grants to, and enter into contracts and cooperative agreements with, educational institutions, private businesses, veterans' nonprofit community-based organizations, and Federal, State, and local departments and agencies for the establishment and implementation of outreach programs for disabled veterans (as defined in section 4211(3) of title 38, United States Code).''.

SEC. 709. OUTREACH FOR ELIGIBLE VETERANS.

The Administrator, the Secretary of Veterans Affairs, and the Assistant Secretary of Labor for Veterans' Employment and Training, shall develop and implement a program of comprehensive outreach to assist eligible veterans, which program shall include business training and management assistance, employment and relocation counseling, and dissemination of information on veterans' benefits and veterans' entitlements.

THE FAA RESEARCH, ENGINEERING, AND DEVELOPMENT AUTHORIZATION ACT OF 1997

GORTON (AND OTHERS) AMENDMENT NO. 1544

(Ordered to lie on the table.)

Mr. GORTON (for himself, Mr. MCCAIN, Mr. HOLLINGS, and Mr. FORD) submitted an amendment intended to be proposed by them to the bill (H.R. 1271) to authorize the Federal Aviation Administration's research, engineering, and development programs for fiscal years 1998 through 2000, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''FAA Research, Engineering, and Development Authorization Act of 1997''.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 48102(a) of title 49, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (2)(J);

(2) by striking the period at the end of paragraph (3)(J) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

''(4) for fiscal year 1998, $229,673,000, including—

''(A) $16,379,000 for system development and infrastructure projects and activities;

''(B) $27,089,000 for capacity and air traffic management technology projects and activities;

''(C) $23,362,000 for communications, navigation, and surveillance projects and activities;

''(D) $16,600,000 for weather projects and activities;

''(E) $7,854,000 for airport technology projects and activities;

''(F) $49,202,000 for aircraft safety technology projects and activities;

''(G) $56,045,000 for system security technology projects and activities;

''(H) $27,137,000 for human factors and aviation medicine projects and activities;

''(I) $2,891,000 for environment and energy projects and activities; and

''(J) $3,114,000 for innovative/cooperative research projects and activities.''.

SEC. 3. RESEARCH GRANTS PROGRAM INVOLVING UNDERGRADUATE STUDENTS.

(a) PROGRAM.—Section 48102 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(h) RESEARCH GRANTS PROGRAM INVOLVING UNDERGRADUATE STUDENTS.—

''(1) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration shall establish a program to utilize undergraduate and technical colleges in research on subjects of relevance to the Federal Aviation Administration. Grants may be awarded under this subsection for—

''(A) research projects to be carried out at primarily undergraduate institutions and technical colleges;

''(B) research projects that combine research at primarily undergraduate institutions and technical colleges with other research supported by the Federal Aviation Administration; or

''(C) research on future training requirements on projected changes in regulatory requirements for aircraft maintenance and power plant licensees.

''(2) NOTICE OF CRITERIA.—Within 6 months after the date of the enactment of the FAA Research, Engineering, and Development Authorization Act of 1997, the Administrator of the Federal Aviation Administration shall establish and publish in the Federal Register criteria for the submittal of proposals for a grant under this subsection, and for the awarding of such grants.

''(3) PRINCIPAL CRITERIA.—The principal criteria for the awarding of grants under this subsection shall be—

''(A) the relevance of the proposed research to technical research needs identified by the Federal Aviation Administration;

''(B) the scientific and technical merit of the proposed research; and

''(C) the potential for participation by undergraduate students in the proposed research.

''(4) COMPETITIVE, MERIT-BASED EVALUATION.—Grants shall be awarded under this subsection on the basis of evaluation of proposals through a competitive, merit-based process.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 48102(a) of title 49, United States Code, as amended by this Act, is further amended by inserting '', of which $750,000 shall be for carrying out the grant program established under subsection (h)'' after ''projects and activities'' in paragraph (4)(J).

SEC. 4. LIMITATION ON APPROPRIATIONS.

No sums are authorized to be appropriated to the Administrator of the Federal Aviation Administration for fiscal year 1998 for the Federal Aviation Administration Research, Engineering, and Development account, unless such sums are specifically authorized to be appropriated by the amendments made by this Act.

SEC. 5. NOTICE OF REPROGRAMMING.

If any funds authorized by the amendments made by this Act are subject to a reprogramming action that requires notice to be provided to the Appropriations Committees of the House of Representatives and the Senate, notice of such action shall concurrently be provided to the Committees on Science and Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 6. SENSE OF CONGRESS ON THE YEAR 2000 PROBLEM.

With the year 2000 fast approaching, it is the sense of Congress that the Federal Aviation Administration should—

(1) give high priority to correcting all 2-digit date-related problems in its computer systems to ensure that those systems continue to operate effectively in the year 2000 and beyond;

(2) assess immediately the extent of the risk to the operations of the Federal Aviation Administration posed by the problems referred to in paragraph (1), and plan and budget for achieving Year 2000 compliance for all of its mission-critical systems; and

(3) develop contingency plans for those systems that the Federal Aviation Administration is unable to correct in time.

Mr. MCCAIN. Mr. President, I rise to join Senator GORTON, Senator HOLLINGS, and Senator FORD, in submitting an amendment to the bill (H.R. 1271) the Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1997. This bill would authorize the Federal Aviation Administration [FAA] Research, Engineering, and Development [RE&D] program. The program funds projects to improve facilities, equipment, techniques, and procedures so that our Nation's aviation system can operate safety and efficiently.

The FAA's research and development activities help to provide the advancements and innovations that are needed to keep the U.S. aviation system the best in the world. Our Nation's ability to have a strong aviation-related research and development program directly impacts our success in the global market and our standard of living. Investment in the FAA RE&D program will fund projects to determine how limited airport and airspace capacity can meet ever increasing demands, aviation security can be improved, and flight safety concerns can be addressed.

The FAA has divided its RE&D program into nine key areas. These include capacity and air traffic management technology; communications, navigation and surveillance systems; weather; airport technology; aircraft safety technology; system security technology; human factors and aviation medicine; environment and energy; and innovative/cooperative research. The FAA funds various projects in these nine areas.

Ongoing or planned FAA RE&D projects will provide important benefits for the U.S. aviation system and its users. The aircraft safety technology area, for example, includes continued research on improving passenger evacuation in the event of an aircraft accident. The system security technology area will include efforts to develop more effective explosives detection technologies. In addition, several recommendations of the White House Commission on Aviation Safety and Security will involve the FAA RE&D program, including modernizing the Nation's air traffic control system.

I strongly support the FAA's efforts under the RE&D program to work in partnership with public and private entities. These partnerships enable the FAA to gain expertise in specialized areas of technology, and to leverage limited Federal funds. The FAA, for example, now has more than 250 agreements for research and development partnerships with research organizations, foreign governments, and industry consortia. In addition, the FAA has established several university-based research centers.

This bill also asks the FAA to address problems that the Agency may face if the software in any of its various computer systems malfunctions when they hit the year 2000. In particular, we cannot afford to have air traffic control systems affected by this problem. I understand that the FAA is behind schedule in determining which of its systems are affected by the Year 2000 problem. The time to make this determination, and then make necessary software modifications, is growing short. That is why the bill includes a Sense of the Congress that the FAA should, among other things, develop contingency plans for those systems that the Agency is unable to correct in time.

The FAA RE&D program is a key component of the Agency's total ongoing efforts to provide the most safe and efficient aviation system possible. I would strongly encourage my colleagues to join me in supporting this bill to authorize the program.

Mr. GORTON. Mr. President, I am pleased to join with my distinguished colleagues, Senator MCCAIN, Senator HOLLINGS, and Senator FORD, in submitting an amendment to the bill (H.R. 1271) the Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1997. The bill authorizes the Federal Aviation Administration [FAA] Research, Engineering, and Development [RE&D] account for fiscal year 1998. The FAA RE&D account finances projects to improve the safety, security, capacity, and efficiency of the U.S. aviation system. The authorization for the RE&D account expired at the end of September.

Recognizing the key role that research and development efforts play in improving our Nation's aviation system, the Congress over time has strengthened the FAA RE&D program. In 1982, the Congress determined that a comprehensive research and development program was necessary to help ensure that the FAA could maintain a safe and efficient air traffic system. In 1988, the Congress established the FAA RE&D Advisory Board to help the FAA set research priorities. After the terrorist bombing of Pan Am Flight 103, the Congress approved the Aviation Safety Improvement Act of 1990, which required the FAA to support activities to accelerate the research and development of new technologies to protect against terrorism.

This bill would authorize the FAA to finance important research and development efforts. These efforts include developing new fire-resistant insulation materials for use on aircraft. Fires are a major threat to aircraft, and this new insulation is intended to give passengers additional time to evacuate if an accident occurs. The FAA also has ongoing research to develop procedures for enhancing terminal area capacity and safety.

It is noteworthy that the FAA works with other Federal agencies and the private sector to leverage RE&D funds. The FAA, for example, has cooperative arrangements with the National Aeronautics and Space Administration and the Department of Defense. The FAA is also currently working with more than 80 private industry partners on 15 major technology development projects. Working with private industry, for example, the FAA recently completed development of a new concrete foam material that will safely stop a large airliner that overshoots a runway because of problems during take off or landing. In addition to leveraging Federal funds, such partnerships facilitate the dissemination of research results to the private sector where they can be used to produce commercial products that will benefit the users of the U.S. aviation system.

The bill includes a Sense of the Congress concerning the so-called Year 2000 problem as it relates to the FAA. Simply stated, the problem stems from the inability of some software to recognize the change from the year 1999 to the year 2000. In these cases, software code must be rewritten to prevent computer systems from crashing. Because the FAA has many systems, including various air traffic control systems, the bill states that the FAA should assess immediately the extent to which its systems will be affected, and to develop a plan and budget to make needed corrections.

Funding appropriate research and development projects today can help to achieve a safer and more efficient air transportation system tomorrow. The bill that I am introducing authorizes this funding. I urge my colleagues to join me in supporting it.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs' scheduled markup on H.R. 976, the Mississippi Sioux Tribe Judgment Fund Distribution Act of 1997 on Monday, November 3, 1997, at 10 a.m. in room 485 of the Russell Senate Office Building has been rescheduled for Tuesday, November 4, 1997, at 9:15 a.m.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet at 9:15 a.m. on Tuesday, November 4, 1997, in room 485 of the Russell Senate Building to mark up the following: H.R. 976, the Mississippi Sioux Tribe Judgment Fund Distribution Act of 1997; and the nomination of B. Kevin Gover, to be Assistant Secretary for Indian Affairs, Department of the Interior.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public

that a hearing has been scheduled before the full Committee on Energy and Natural Resources to consider the nominations of Curtis L. Hebert and Linda Key Breathitt to be members of the Federal Energy Regulatory Commission.

The hearing will take place Tuesday, November 4, 1997 at 10 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Allyson Kennett at (202) 224–5070.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Wednesday, November 5, 1997, at 9:30 a.m. to conduct a business meeting to vote on matters pending before the committee, including the use of laptop computers on the Senate floor; release of documents to Harry Connick, district attorney of New Orleans; and, reimbursement of expenses in connection with the contested Senate election in Louisiana.

For further information concerning this hearing, please contact Ed Edens of the Rules Committee staff at 224–6678.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, October 31, 1997, at 10 a.m. to hold a hearing.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Friday, October 31, 1997, at 9:30 a.m., to hold a hearing entitled ''Oversight Review of the Treasury Department's Inspector General.''

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

ADDITIONAL STATEMENTS

CHEMISTRY WEEK

● Mr. SPECTER. Mr. President, I would like to take this opportunity to recognize the Philadelphia section of the American Chemical Society, whose 5,000 members, along with their nearly 200 sister sections in all 50 States, the District of Columbia, and Puerto Rico, have set aside November 2 through November 8, 1997, for a national celebration directing our attention to the many contributions of their scientific discipline.

The science of chemistry gives us the power to understand and to use the elemental building blocks of all material things. The science of chemistry also provides the fundamental understanding required to deal with many of society's needs, including several that determined our quality of life and our economic strength. Chemists and chemical engineers use their powerful science in helping feed the world's population, tapping new energy sources, clothing and housing humanity, providing renewable substitutes for dwindling or scarce materials, improving health and conquering disease, and monitoring and protecting our environment, and strengthening our national security.

As the American Chemical Society works to enhance public awareness about the crucial role that chemistry plays in everyday life during National Chemistry Week, I hope that my colleagues will take this occasion to recognize the chemists and chemical engineers in their States who have dedicated themselves to improving the quality of life for all.●

TRIBUTE TO HELENE S. SMITH

● Mrs. BOXER. Mr. President, on June 5, 1997, a remarkable woman and superb scientist, Dr. Helene Smith, died at her home in California.

Dr. Smith's scholarly activities and indefatigable personality influenced the scientific community well beyond San Francisco's California Pacific Medical Center, where she directed the Geraldine Brush Cancer Research Institute.

There is great sadness as well as irony associated with Dr. Smith's death from breast cancer, a disease she devoted much of her life to studying.

Her friend and colleague, Dr. Ann Thor, professor of pathology and surgery at the Northwestern University School of Medicine, has written a very moving tribute which will be published in the Journal of Mammary Gland Biology and Neoplasia (Volume 3, Issue 1, in press).

I am grateful to Dr. Thor, Dr. Peggy Neville, editor of the Journal, and to Plenum Publishing Corp. for permission to use this tribute, and I ask that it be printed in the RECORD.

The tribute follows:

HELENE SMITH, PH.D.: A MEMORIAL

(By Ann Thor, M.D.)

Dr. Helene Smith, who has contributed greatly to our understanding of and research devoted to breast cancer, died recently of that disease. Dr. Smith was a leader in the scientific community—publishing extensively in the fields of breast cancer cell biology and molecular genetics. Helene had a uniquely personal battle with breast cancer, as it claimed several family members including a sister. Her enthusiasm and involvement in breast cancer research was unique. Those who knew her well understood that her motivations went beyond the norm and closely approximated a religious zeal, even before her own diagnosis. As noted by Dr. Edison Liu, Director of the Division of Clinical Sciences of the National Cancer Institute of the National Institutes of Health, ''Her sense of conviction to the conquest of breast cancer made her one of the most compelling advocates. This sense was contagious and invigorated her colleagues to overcome petty barriers to interaction so that we may act as a unified force in breast cancer research.''

As both patient and experienced researcher, she developed insights regarding the positive and negative aspects of our current health care system, traditional medical approaches and the infrastructure which supports breast cancer research in this country. Helene actively promoted interactions between clinicians of all specialties, basic researchers and patient advocates to foster new approaches where traditional measures have failed. She served tirelessly as the principal investigator of a program project to develop new molecular and cellular markers for predicting breast cancer prognosis, and as co-principle investigator of a Special Program of Research Excellence (SPORE) to develop novel approaches to breast cancer therapeutics. Dr. Smith was Chair of the Integration Panel of the Department of Defense Breast Cancer Research Program and served as well on the National Advisory Board of the Susan G. Komen Foundation. Helene received many honors for her accomplishments in traditional breast cancer science. In 1995 she was honored by the Komen Foundation with the prestigious Brinker International Award for Breast Cancer Research.

Dr. Smith was a pioneer supporter of breast cancer patient advocates and encouraged their participation in research programs. According to one advocate, Deborah Collyar, ''When I first met her, she was very much against advocates getting involved in science . . . however, she began to see how important it was to start bringing in the patient perspective. Helene became one of the best patient advocates I've ever had the pleasure of knowing.'' In this unusual role, she worked tirelessly with patient groups to explain the science and serve as a translator of traditional medicine.

Helene believed that her own role in research was best carried out at a small institute rather than at a large university. She used the metaphor that her institute (the Geraldine Brush Cancer Research Institute of California Pacific Medical Center, San Francisco) was a canoe and that universities were ocean liners. According to her husband, Allan Smith M.D., she believed that a canoe was best to explore new territory and negotiate sudden turns (e.g., new research directions) and ocean liners were better at conventional work (e.g., major research protocols). She believed that both of these approaches were necessary for the advancement of science, but novel research was more fun.

Helene's immersion into breast cancer from all aspects of her professional and personal life allowed her to develop novel ideas regarding cancer therapeutics as well. Spiritual and physical aspects of the disease overlapped, driving a renewed interest in cancer immunology, epigenetic factors and complementary medicine. Some transgressions away from traditional science were not always favorably considered by more traditional scientific colleagues, but Helene persisted and sought to apply strict scientific methods and study designs to test complementary approaches. As noted by her clinician Debu Tripathy, M.D., ''The popular field of alternative and complementary medicine, ranging from herbal medicine to mind-body interaction, was of great interest to Helene, although she adopted a rigorous scientific approach in order to evaluate them.'' As an outgrowth of those interests, she helped found the California Pacific Medical Center's Institute for Health and Healing as

well as the Research Institute's new division, the Complementary Medicine Research Institute, which encompasses clinical and scientific laboratory based programs to study alternative medical approaches. ''Helene envisioned a practice of science and medicine without boundaries,'' according to Dr. Tripathy.

Dr. Smith graduated BS Cum Laude from the University of Pennsylvania in 1962 and received a Doctorate in Microbiology from the University of Pennsylvania in 1967. A postdoctoral research position at Princeton University in Professor Arthur B. Pardee's laboratory from 1967–69 laid the ground work for her interests in cell culture and cellular transformation. Her first breast cancer research manuscript was published in 1973. This was followed by decades of important citations—resulting in over 100 publications. One of her last manuscripts published by *Science*, ''Loss of Heterozygosity in Normal Tissue Adjacent to Breast Carcinomas'' (Vol. 274, 1996), described genetic losses in morphologically normal lobular epithelium adjacent to breast cancers. These findings support her ''stochastic model of breast carcinogenesis'', a multivariate model of acquired genetic change. Helene believed that molecular alterations might someday be used to predict breast carcinogenesis or the biology of breast cancers in individual women. Her findings also suggest that our current methods of tissue evaluation (histopathologic evaluation) may be inadequate as the science is further developed. Helene sought to identify new intermediate endpoints and understand early changes in the process of breast carcinogenesis. She felt that a combination of traditional pathology and molecular diagnostics would be more informative for individual patients than a categorical system based on histopathology alone.

As a result of her leadership in science, ability to cross over disciplines, devotion to translational advancements, mentoring and recruitment capacities, ability to conceptualize novel ideas and service in numerous administrative roles, she has forever changed traditional approaches to breast cancer science. In addition to fostering research in many areas, Helene was particularly important as a mentor for young scientists—particularly women. These contributions, in addition to her easy smile and invigorating personality will be sorely missed and not easily forgotten.●

TRIBUTE TO ''JEOPARDY''

● Mr. JEFFORDS. Mr. President, I rise today to pay tribute to ''Jeopardy'' and its efforts in educational outreach. The show has been successful in providing more than just entertainment for its audience. In over 3,000 episodes spanning 14 years, ''Jeopardy'' has challenged viewers to expand their horizons and learn more about some fundamental fields of study.

''Jeopardy'' seeks and demands attentive participation. Accordingly, this forum has often been used by schools throughout the country to improve students' performance in a wide array of subjects.

The show will be taping in 2 weeks worth of episodes from Washington, DC, at Constitution Hall. The first week will pay tribute to the educational accomplishments of our Nation's best and brightest children. The second week will spotlight members of the political community to raise more than $150,000 for worthy causes and stress the value of education.

It seems clear that ''Jeopardy'' realizes the significance of learning for people both young and old. I salute ''Jeopardy'' for reaching beyond the television screen to provide quality programming with truly profound educational benefits for every community across the Nation.●

TITLE VII OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL

● Mr. GRAHAM. Mr. President, I submit the following clarification to the fiscal year 1998 Interior and related agencies appropriations bill on behalf of myself and Senator MACK. I ask that it be printed in the RECORD.

The clarification follows:

MACK-GRAHAM STATEMENT CONCERNING TITLE VII OF THE FISCAL YEAR 1998 INTERIOR APPROPRIATIONS BILL

Title VII of the FY'98 Interior Appropriations Bill approves and implements a settlement between the Miccosukee Tribe of Indians of Florida and the Florida Department of Transportation. It should be understood that the lawsuit referred to in section 702(2) and elsewhere has already been dismissed. However, since the lawsuit formed the underlaying basis of the dispute and could be revived absent this settlement, the settlement and this legislation refers to the lawsuit and settles all claims based on the underlying facts of the lawsuit. It should also be understood that the concurrence of the Board of Trustees of the International Improvements Trust Fund referred to in section 702(7)(B)(ii) relates only to the transfer of land to which the Board holds title. Insofar as the settlement provides for such land transfers wherein the Board has certain responsibilities, the Board concurs. The Board has taken no position with respect to other parts of the settlement regarding which the Board has no responsibility and which are instead within the authority and responsibility of the Florida Department of Transportation, which has executed the settlement.●

HONORING SENIOR JUDGE ABRAHAM LINCOLN MAROVITZ

● Ms. MOSELEY-BRAUN. Mr. President, it is my great pleasure to join the celebration of the 75th anniversary of American ORT, and to congratulate Senior Federal Judge Abraham Lincoln Marovitz on being American ORT's Diamond Jubilee Award winner.

Each year, American ORT provides high-technology vocational training and education to over 6,000 students in cities across the country, including Chicago at the Zarem/Golde ORT Technical Institute. Worldwide, ORT teaches comprehensive technical skills to over 250,000 students in 60 countries. As a private, nonsectarian, nonpartisan, nonprofit organization, ORT has provided hope and opportunity to hundreds of thousands of people through high quality vocational education.

The stunning success of American ORT during the past 75 years certainly would not have been possible without the presence of its brightest star, Senior Federal Court Judge Abraham Lincoln Marovitz. The contributions made by Judge Marovitz to American ORT, the State of Illinois, and our Nation are, quite simply, without peer.

Judge Marovitz overcame humble beginnings amidst the poverty of Chicago's west side to lead a remarkable life of public service. After graduating from Chicago-Kent College of Law at the age of 19 in 1927, Judge Marovitz went on to serve as an Assistant Illinois states attorney and an Illinois State senator. In 1943, at the age of 38, Judge Marovitz waived his senatorial deferment and enlisted as a private in the U.S. Marine Corps. After seeing combat and being wounded in the Pacific Theater, he retired from the Marines with the rank of sergeant major.

In 1950, Abraham Lincoln Marovitz was elected judge of the Superior Court of Illinois. From 1958 to 1959, he served as the chief justice of the Criminal Court of Cook County. Judge Marovitz received national recognition for his jurisprudence in 1963 when President Kennedy appointed him as the U.S. District Court Judge for the Northern District of Illinois. In 1975, Judge Marovitz assumed senior status as a U.S. District Court Judge, a position in which he continues to serve the people of Illinois and the Nation.

Judge Marovitz has not been content to focus solely on his career. Instead, he has freely given both his time and talents to a wide range of community organizations. In addition to his association with American ORT, he has served groups including the Jewish War Veterans of the United States, the National Conference of State Court Trial Judges, and the American Legion. Moreover, Judge Marovitz served as chairman of the board of the Lincoln National Bank for 17 years, was a board member and trustee of Chicago-Kent College of Law and the Chicago Medical School, the Chicago Bar Association, and numerous other civic, religious, and veterans organizations.

For his voluntarism, Judge Marovitz has been honored by organizations such as the Variety Club, the Daughters of the American Revolution, the Anti-Defamation League, the United Neighborhood Organization of Chicago, the Jesse Owens Foundation, the Chicago City Council, the State of Illinois, and the State of Israel. These awards are but a few of the many testaments to his unyielding devotion to and enduring love for his fellow man and woman.

For all his civic commitments, Judge Marovitz has never lost his common touch and regard for individuals no matter their station in life. Specifically, I am personally ever indebted to him for the many kindnesses he showed me years ago, when I was a young assistant U.S. attorney.

Without a doubt, the city of Chicago, the State of Illinois, and our country have benefited greatly from the many selfless contributions that Judge Marovitz has made over the years. He is not only a Chicago treasure, but a national treasure as well. I take great pride in congratulating him on his American ORT Diamond Jubilee Award. It is also my distinct honor to celebrate 75 wonderful years of ORT in the United States.●

UNANIMOUS-CONSENT AGREEMENT—DEPARTMENT OF DEFENSE AUTHORIZATION CONFERENCE REPORT

Mr. NICKLES. Mr. President, I ask unanimous consent that, notwithstanding rule XXII, that on Thursday, November 6th, at 10 a.m., the Senate proceed to the DOD authorization conference report, and the report be considered as having been read, and there be 4 hours equally divided in the usual form, and following the conclusion or yielding back of time, the Senate proceed to vote on adoption of the conference report, without any intervening action or debate.

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

UNANIMOUS-CONSENT AGREEMENT—PROVIDING FOR CORRECTIONS IN THE ENROLLMENT OF H.R. 1119

Mr. NICKLES. Mr. President, I also ask unanimous consent that following the adoption of the conference report, Senator DOMENICI be recognized to offer and the Senate proceed to a concurrent resolution making technical corrections in the enrollment of the DOD authorization conference report regarding section 3165 of the bill and to address an issue with respect to correcting several mistakes and that no amendments be in order and that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table, all without further action or debate, and the text of the resolution be printed in the RECORD following this request.

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

The concurrent resolution is as follows:

S. CON. RES.—

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of H.R. 1119 to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

In section 3165—

(1) in subsection (b)(1), strike out ''under the jurisdiction'' and all that follows through ''Los Alamos National Laboratory'' and insert in lieu thereof ''under the administrative jurisdiction of the Secretary at or in the vicinity of Los Alamos National Laboratory''; and

(2) in subsection (e), strike out '', the Secretary of the Interior'' and all that follows through the end and insert in lieu thereof ''but not later than 90 days after the submittal of the report under subsection (d)(1)(C), the County and the Pueblo shall submit to the Secretary an agreement between the County and the Pueblo which allocates between the County and the Pueblo the parcels identified for conveyance or transfer under subsection (b).''.

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF CHARLES ROSSOTTI

Mr. NICKLES. Mr. President, as in executive session, I ask unanimous consent that on Monday, November 3, at 2:45 p.m., the Senate proceed to executive session for the consideration of calendar No. 351, the nomination of Charles Rossotti, to be Commissioner of the Internal Revenue. I further ask unanimous consent there be 3 hours of debate equally divided as follows: Senator LOTT or his designee, 60 minutes; Senator MOYNIHAN, 90 minutes; and Senator ROTH, 30 minutes. I further ask unanimous consent that following the conclusion or yielding back of the time, the Senate proceed to a vote on the confirmation of Mr. Rossotti, and that following that vote the motion to reconsider be laid upon the table, and the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. NICKLES. Mr. President, in executive session, I ask unanimous consent that the Senate proceed to the following nomination on the Executive Calendar, No. 360.

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

Mr. NICKLES. Mr. President, I finally ask unanimous consent that the nomination be confirmed, that the motion to reconsider be laid upon the table, any statements relating to the nomination appear at the appropriate place in the RECORD, and the President be immediately notified of the Senate's action.

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

The nomination considered and confirmed is as follows:

ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Jack P. Nix, Jr.

TREATIES

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to consider the following treaties on today's Executive Calendar, Executive Calendar Nos. 8, 9, 10, 11, 12, 13, 14, and 15; I further ask unanimous consent that the treaties be considered as having passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification; that all committee provisos, reservations, understandings and declarations be considered agreed to; that any statements in regard to these treaties be inserted in the CONGRESSIONAL RECORD as if read; and that the Senate take one vote on the resolutions of ratification to be considered as separate votes; further, that when the resolutions of ratification are voted upon the motion to reconsider be laid upon the table; the President then be notified of the Senate's action and that following the disposition of the treaties, the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered. The treaties will be considered to have passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification.

The resolutions of ratification are as follows:

TAXATION AGREEMENT WITH TURKEY

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Agreement between the Government of the United States of America and the Government of the Republic of Turkey for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a related Protocol, signed at Washington on March 28, 1996 (Treaty Doc. 104–30) subject to the declaration of subsection (a), and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

TAXATION CONVENTION WITH AUSTRIA

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the United States of America and the Republic of Austria for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Vienna on May 31, 1996 (Treaty Doc. 104–31) subject to the understanding of subsection (a), the declarations of subsection (b), and the proviso of subsection (c).

(a) UNDERSTANDING.—The Senate's advice and consent is subject to the following understanding, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) OECD COMMENTARY.—Provisions of the Convention that correspond to provisions of the Organization for Economic Cooperation and Development (OECD) Model Tax Convention on Income and on Capital generally shall be expected to have the same meaning as expressed in the OECD Commentary thereon. The United States understands, however, that the foregoing will not apply with respect to any reservations or observations it enters to the OECD Model or its Commentary and that it may enter such a reservation or observation at any time.

(b) DECLARATIONS.—The Senate's advice and consent is subject to the following two declarations, which shall be binding on the President:

(1) REAL ESTATE INVESTMENT TRUSTS.—The United States shall use its best efforts to negotiate with the Republic of Austria a protocol amending the Convention to provide for the application of subparagraph (b) of paragraph 2 of Article 10 of the Convention to dividends paid by a Real Estate Investment Trust in cases where (i) the beneficial owner of the dividends beneficially holds an interest of 5 percent or less in each class of the stock of the Real Estate Investment Trust and the dividends are paid with respect to a class of stock of the Real Estate Investment Trust that is publicly traded or (ii) the beneficial owner of the dividends beneficially holds an interest of 10 percent or less in the Real Estate Investment Trust and the Real Estate Investment Trust is diversified.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

TAXATION CONVENTION WITH LUXEMBOURG

Resolved, (two-thirds of the Senators concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the Grand Duchy of Luxembourg for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, signed at Luxembourg on April 3, 1996 (Treaty Doc. 104–33), subject to the reservation of subsection (a), the declarations of subsection (b), and the proviso of subsection (c).

(a) RESERVATION.—The Senate's advice and consent is subject to the following reservation, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) REAL ESTATE INVESTMENT TRUSTS.—Subparagraph (a)(ii) of paragraph 2 of Article 10 of the Convention shall apply to dividends paid by a Real Estate Investment Trust in cases where (i) the beneficial owner of the dividends beneficially holds an interest of 5 percent or less in each class of the stock of the Real Estate Investment Trust and the dividends are paid with respect to a class of stock of the Real Estate Investment Trust that is publicly traded, (ii) the beneficial owner of the dividends beneficially holds an interest of 10 percent or less in the Real Estate Investment Trust and the Real Estate Investment Trust is diversified, or (iii) the beneficial owner of the dividends beneficially held an interest in the Real Estate Investment Trust as of June 30, 1997, the dividends are paid with respect to such interest, and the Real Estate Investment Trust is diversified (provided that such provision shall be not apply to dividends paid after December 31, 1999 unless the Real Estate Investment Trust is publicly traded on December 31, 1999 and thereafter).

(b) DECLARATIONS.—The Senate's advice and consent is subject to the following two declarations, which shall be binding on the President.

(1) SIMULTANEOUS EXCHANGE.—The United States shall not exchange the instruments of ratification of this Convention with the Government of the Grand Duchy of Luxembourg until such time as it exchanges the instruments of ratification with respect to the Treaty Between the Government of the United States of America and the Government of the Grand Duchy of Luxembourg on Mutual Legal Assistance in Criminal Matters, signed at Washington on March 13, 1997 (Treaty Doc. 105–11).

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President.

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

TAXATION CONVENTION WITH THAILAND

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of the Kingdom of Thailand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Bangkok, November 26, 1996 (Treaty Doc. 105–2), subject to the declaration of subsection (a); and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

TAXATION CONVENTION WITH SWITZERLAND

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention Between the United States of America and the Swiss Confederation for the Avoidance of Double Taxation with Respect to Taxes on Income, signed at Washington, October 2, 1996 together with a Protocol to the Convention (Treaty Doc. 105–8), subject to the declarations of subsection (a), and the proviso of subsection (b).

(a) DECLARATIONS.—The Senate's advice and consent is subject to the following two declarations, which shall be binding on the President:

(1) REAL ESTATE INVESTMENT TRUSTS.—The United States shall use its best efforts to negotiate with the Swiss Confederation a protocol amending the Convention to provide for the application of subparagraph (b) of paragraph 2 of Article 10 of the Convention to dividends paid by a Real Estate Investment Trust in cases where (i) the beneficial owner of the dividends beneficially holds an interest of 5 percent or less in each class of the stock of the Real Estate Investment Trust and the dividends are paid with respect to a class of stock of the Real Estate Investment Trust that is publicly traded or (ii) the beneficial owner of the dividends beneficially holds an interest of 10 percent or less in the Real Estate Investment Trust and the Real Estate Investment Trust is diversified.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

TAX CONVENTION WITH SOUTH AFRICA

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the United States of America and the Republic of South Africa for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains, signed at Cape Town February 17, 1997 (Treaty Doc. 105–9), subject to the declaration of subsection (a), and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President.

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

PROTOCOL AMENDING TAX CONVENTION WITH CANADA

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol Amending the Convention Between the United States of America and Canada with Respect to Taxes on Income and on Capital Signed at Washington on September 26, 1980 as Amended by the Protocols Signed on June 14, 1983, March 28, 1984 and March 17, 1995, signed at Ottawa on July 29, 1997 (Treaty Doc. 105–29) subject to the declaration of subsection (a), and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President.

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President.

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

TAX CONVENTION WITH IRELAND

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains, signed at Dublin on July 28, 1997, together with Protocol and exchange of notes done on the same date (Treaty Doc. 105–31), subject to the understanding of subsection (a), the declarations of subsection (b), and the proviso of subsection (c).

(a) UNDERSTANDING.—The Senate's advice and consent is subject to the following understanding which shall be included in the instrument of ratification, and shall be binding on the President:

(1) EXCHANGE OF INFORMATION.—The United States competent authority follows a practice of comity with respect to exchanges of information under all tax conventions.

(b) DECLARATIONS.—The Senate's advice and consent is subject to the following two declarations, which shall be binding on the President:

(1) REAL ESTATE INVESTMENT TRUSTS.—The United States shall use its best efforts to negotiate with the Government of Ireland a protocol amending the Convention to provide for the application of subparagraph (b) of paragraph 2 of Article 10 of the Convention to dividends paid by a Real Estate Investment Trust in cases where (ii) the beneficial owner of the dividends beneficially holds an interest of 5 percent or less in each class of the stock of the Real Estate Investment Trust and the dividends are paid with respect to a class of stock of the Real Estate Investment Trust that is publicly traded or (i) the beneficial owner of the dividends beneficially holds an interest of 10 percent or less in the Real Estate Investment Trust and the Real Estate Investment Trust is diversified.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Mr. NICKLES. Mr. President, I ask for a division vote on the resolutions of ratification.

The PRESIDING OFFICER. A division is requested. Senators in favor of the resolutions of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting, having voted in the affirmative, the resolutions of ratification are agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NATIONAL CONCERN ABOUT YOUNG PEOPLE AND GUN VIOLENCE DAY

Mr. NICKLES. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate resolution 141, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 141) expressing the sense of the Senate regarding National Concern About Young People and Gun Violence Day.

The Senate proceeded to consider the resolution.

Mrs. MURRAY. Mr. President, I want to thank my many colleagues, who on such short notice, agreed to cosponsor and enact this resolution establishing November 6, 1997, as National Concern about Young People and Gun Violence Day. I know the many volunteers and organizations working to protect our children also offer their thanks.

Today, Halloween, is a perfect day to reaffirm our national commitment to stopping youth violence. On this night, children across America will be going trick or treating dressed in all sorts of wonderful costumes. They will enjoy seeing each other, visiting their neighbors, and—best of all—getting mountains of sweets.

But in many cities, parents will keep their children inside. There will be no trick or treating because the streets are too dangerous for children. There might be block parties, but there won't be the fun and freedom that comes from frolicking through the streets in search of the good treats. All of us recognize the importance of making our streets and communities safe for children.

One person, Mary Lewis Grow, thought something we might do to make our young people safer was to establish a national Day of Concern. So, this Minnesota homemaker, in 1996, persuaded Senators WELLSTONE, SPECTER, and Bradley to introduce this resolution. Other groups, such as Mothers Against Violence in America, joined her effort. The proclamation of a special day of recognition also provided support to a national effort to encourage students to sign a pledge against gun violence. In 1996, 32,000 students in Washington State signed the pledge card, as did more than 200,000 children in New York City, and tens of thousands more across the Nation.

The Student Pledge Against Gun Violence calls for a national observance on November 6 to give students throughout America the chance to make a promise, in writing, that they will do their part to prevent gun violence. The students' pledge promises three things: first, they will never carry a gun to school; second, they will never resolve a dispute with a gun; and third, they will use their influence with friends to discourage them from resolving disputes with guns.

Mr. President, just last week I joined several colleagues on the floor of the Senate as we decried the murder of Ann Harris, a 17-year-old Virginian, by a 19-year-old man in Washington State. This random act of violence was apparently precipitated because the car in which Ann was a passenger was going too slowly for the driver of the car in which the murderer was riding. The young man was angry enough and morally numbed enough to fire his gun into Ann's car, killing Ann. What a tragedy. What a waste.

In another example, a 14-year-old boy opened fire in a Moses Lake, WA, classroom, killing a teacher and student and wounding others. He has been convicted, but that does little to ease the pain of the loss suffered by that small community. Maybe if he had signed a pledge, maybe if he had heard the message over and over from parents and friends that gun violence was the wrong way to solve problems, maybe if, maybe if. We don't know how we might have stopped this act of violence, but we know we all have to try education, try outreach, try everything.

Mr. President, we need to help all of our kids feel a part of this society. Yet

often we overlook the young people themselves when trying to develop solutions. Students and other young leaders represent the great untapped resource for improving our communities. As many teachers and police officers have told me, ''if a young person doesn't succeed anywhere else, they can always find success in a gang.'' We need to make sure they have more productive options. The road to creating these options, and to healing our communities, starts with the young people themselves.

Young people increasingly grow tired of getting all of the blame for crime in our neighborhoods, and none of the responsibility for solutions. If you ask young people what they think will make a difference for them, you'll find them to be highly creative. Many times their solutions work far better than solutions put forward by adults.

Young people in my State and across the country don't like school uniform requirements, curfews, and other policies enacted for young people. Young people with the Seattle Youth Involvement Network decided to do something about it. They opened a dialog with the police department. They shared perspectives. They looked across the lines that separated their cultures. They spoke about ways police see and speak with young people and vice versa. And they found solutions to many problems facing them both.

For more than a year now, I've been in a dialog with young people from all over the State of Washington who have joined the Senate Advisory Youth Involvement Team I established. They advise me on issues affecting them, and I help them with local community action. Crime, and how to prevent it, is a large concern with the young people I talk with, whether they are in gifted programs or youth offender programs.

This resolution today should be seen as an invitation for young people across the country to tell us what they think about how to solve the problems of crime and gun violence. It should be displayed in every school, community center, and on every street corner in America.

Mr. President, let us work with our kids to show them we care. And with our communities to give these young people other options to violence. I again affirm my commitment to work with our young people to let them know we care about them and to help them learn gun violence is not the answer to any problem.

Mr. NICKLES. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, that the motion to reconsider be laid upon the table, that any statements relating thereto be placed in the record as if read.

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

The resolution (S. Res. 141) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 141

Whereas every day in America, 15 children under the age of 19 are killed with guns;

Whereas in 1994, approximately 70 percent of murder victims aged 15 to 17 were killed with a handgun;

Whereas in 1995, nearly 8 percent of high school students reported having carried a gun in the past 30 days;

Whereas young people are our nation's most important resource, and we, as a society, have a vested interest in helping children grow from a childhood free from fear and violence into healthy adulthood;

Whereas young people can, by taking responsibility for their own decisions and actions, and by positively influencing the decisions and actions of others, help chart a new and less violent direction for the entire Nation;

Whereas students in every school district in the Nation will be invited to take part in a day of nationwide observance involving millions of their fellow students, and will thereby be empowered to see themselves as significant agents in a wave of positive social change; and

Whereas the observance of this day will give the students the opportunity to make an earnest decision about their future by voluntarily signing the ''Student Pledge Against Gun Violence'', and sincerely promise that the students will never take a gun to school, will never use a gun to settle a dispute, and will use their influence to keep friends from using guns to settle disputes: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) November 6, 1997, should be designated as ''National Concern About Young People and Gun Violence Day''; and

(2) the President should be authorized and requested to issue a proclamation calling upon the school children of the United States to observe such day with appropriate ceremonies and activities.

EXPORT–IMPORT BANK OF THE UNITED STATES REAUTHORIZATION ACT

Mr. NICKLES. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on (S. 1026) to reauthorize the Export-Import Bank of the United States.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1026) entitled ''An Act to reauthorize the Export-Import Bank of the United States.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. EXTENSION OF AUTHORITY.

Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking ''1997'' and inserting ''2001''.

SEC. 2. TIED AID CREDIT FUND AUTHORITY.

(a) Section 10(c)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(c)(2)) is amended by striking ''through September 30, 1997''.

(b) Section 10(e) of such Act (12 U.S.C. 635i–3(e)) is amended by striking the first sentence and inserting the following: ''There are authorized to be appropriated to the Fund such sums as may be necessary to carry out the purposes of this section.''.

SEC. 3. EXTENSION OF AUTHORITY TO PROVIDE FINANCING FOR THE EXPORT OF NONLETHAL DEFENSE ARTICLES OR SERVICES THE PRIMARY END USE OF WHICH WILL BE FOR CIVILIAN PURPOSES.

Section 1(c) of Public Law 103–428 (12 U.S.C. 635 note; 108 Stat. 4376) is amended by striking ''1997'' and inserting ''2001''.

SEC. 4. CLARIFICATION OF PROCEDURES FOR DENYING CREDIT BASED ON THE NATIONAL INTEREST.

Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended—

(1) in the last sentence, by inserting '', after consultation with the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate,'' after ''President''; and

(2) by adding at the end the following: ''Each such determination shall be delivered in writing to the President of the Bank, shall state that the determination is made pursuant to this section, and shall specify the applications or categories of applications for credit which should be denied by the Bank in furtherance of the national interest.''.

SEC. 5. ADMINISTRATIVE COUNSEL.

Section 3(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(e)) is amended—

(1) by inserting ''(1)'' after ''(e)''; and

(2) by adding at the end the following:

''(2) The General Counsel of the Bank shall ensure that the directors, officers, and employees of the Bank have available appropriate legal counsel for advice on, and oversight of, issues relating to ethics, conflicts of interest, personnel matters, and other administrative law matters by designating an attorney to serve as Assistant General Counsel for Administration, whose duties, under the supervision of the General Counsel, shall be concerned solely or primarily with such issues.''.

SEC. 6. ADVISORY COMMITTEE FOR SUB-SAHARAN AFRICA.

(a) IN GENERAL.—Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by inserting after paragraph (8) the following:

''(9)(A) The Board of Directors of the Bank shall take prompt measures, consistent with the credit standards otherwise required by law, to promote the expansion of the Bank's financial commitments in sub-Saharan Africa under the loan, guarantee, and insurance programs of the Bank.

''(B)(i) The Board of Directors shall establish and use an advisory committee to advise the Board of Directors on the development and implementation of policies and programs designed to support the expansion described in subparagraph (A).

''(ii) The advisory committee shall make recommendations to the Board of Directors on how the Bank can facilitate greater support by United States commercial banks for trade with sub-Saharan Africa.

''(iii) The advisory committee shall terminate 4 years after the date of the enactment of this subparagraph.''.

(b) REPORTS TO THE CONGRESS.—Within 6 months after the date of the enactment of this Act, and annually for each of the 4 years thereafter, the Board of Directors of the Export-Import Bank of the United States submit to the Congress a report on the steps that the Board has taken to implement section 2(b)(9)(B) of the Export-Import Bank Act of 1945 and any recommendations of the advisory committee established pursuant to such section.

SEC. 7. INCREASE IN LABOR REPRESENTATION ON THE ADVISORY COMMITTEE OF THE EXPORT-IMPORT BANK.

Section 3(d)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(d)(2)) is amended—

(1) by inserting ''(A)'' after ''(2)''; and

(2) by adding after and below the end the following:

''(B) Not less than 2 members appointed to the Advisory Committee shall be representative of the labor community.''.

SEC. 8. OUTREACH TO COMPANIES.

Section 2(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)) is amended by adding at the end the following:

''(I) The Chairman of the Bank shall design and implement a program to provide information about Bank programs to companies which have not participated in Bank programs. Not later than 1 year after the date of the enactment of this subparagraph, the Chairman of the Bank shall submit to the Congress a report on the activities undertaken pursuant to this subparagraph.''.

SEC. 9. FIRMS THAT HAVE SHOWN A COMMITMENT TO REINVESTMENT AND JOB CREATION IN THE UNITED STATES TO BE GIVEN PREFERENCE IN FINANCIAL ASSISTANCE DETERMINATIONS.

Section 2(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)), as amended by section 8 of this Act, is amended by adding at the end the following:

''(J) The Board of Directors of the Bank shall prescribe such regulations and the Bank shall implement such procedures as may be appropriate to ensure that, in selecting from among firms to which to provide financial assistance, preference be given to any firm that has shown a commitment to reinvestment and job creation in the United States.''.

SEC. 10. PREFERENCE IN EXPORT-IMPORT BANK ASSISTANCE FOR EXPORTS TO CHINA TO BE PROVIDED TO COMPANIES ADHERING TO CODE OF CONDUCT.

(a) IN GENERAL.—Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is amended by adding at the end the following:

''(f) PREFERENCE IN ASSISTANCE FOR EXPORTS TO CHINA TO BE PROVIDED TO ENTITIES ADHERING TO CODE OF CONDUCT.—

''(1) PROHIBITIONS.—

''(A) IN GENERAL.—In determining whether to guarantee, insure, extend credit, or participate in the extension of credit with respect to the export of goods or services destined for the People's Republic of China, the Board of Directors shall give preference to entities that the Board of Directors determines have established and are adhering to the code of conduct set forth in paragraph (2).

''(B) PENALTY FOR VIOLATION.—The Bank shall withdraw any guarantee, insurance, or credit that the Bank has provided, and shall withdraw from any participation in an extension of credit, to an entity with respect to the export of any good or service destined for the People's Republic of China if the Board of Directors determines that the entity is not adhering to the code of conduct set forth in paragraph (2).

''(2) CODE OF CONDUCT.—An entity shall do all of the following in all of its operations:

''(A) Provide a safe and healthy workplace.

''(B) Ensure fair employment, including by—

''(i) avoiding child and forced labor, and discrimination based upon race, gender, national origin, or religious beliefs;

''(ii) respecting freedom of association and the right to organize and bargain collectively;

''(iii) paying not less than the minimum wage required by law or the prevailing industry wage, whichever is higher; and

''(iv) providing all legally mandated benefits.

''(C) Obey all applicable environmental laws.

''(D) Comply with United States and local laws promoting good business practices, including laws prohibiting illicit payments and ensuring fair competition.

''(E) Maintain, through leadership at all levels, a corporate culture—

''(i) which respects free expression consistent with legitimate business concerns, and does not condone political coercion in the workplace;

''(ii) which encourages good corporate citizenship and makes a positive contribution to the communities in which the entity operates; and

''(iii) in which ethical conduct is recognized, valued, and exemplified by all employees.

''(F) Require similar behavior by partners, suppliers, and subcontractors under terms of contracts.

''(G) Implement and monitor compliance with the subparagraphs (A) through (F) through a program that is designed to prevent and detect noncompliance by any employee or supplier of the entity and that includes—

''(i) standards for ethical conduct of employees of the entity and of suppliers which refer to the subparagraphs;

''(ii) procedures for assignment of appropriately qualified personnel at the management level to monitor and enforce compliance;

''(iii) procedures for reporting noncompliance by employees and suppliers;

''(iv) procedures for selecting qualified individuals who are not employees of the entity or of suppliers to monitor compliance, and for assessing the effectiveness of such compliance monitoring;

''(v) procedures for disciplinary action in response to noncompliance;

''(vi) procedures designed to ensure that, in cases in which noncompliance is detected, reasonable steps are taken to correct the noncompliance and prevent similar noncompliance from occurring; and

''(vii) communication of all standards and procedures with respect to the code of conduct to every employee and supplier—

''(I) by requiring all management level employees and suppliers to participate in a training program; or

''(II) by disseminating information orally and in writing, through posting of an explanation of the standards and procedures in prominent places sufficient to inform all employees and suppliers, in the local languages spoken by employees and managers.

''(3) SMALL BUSINESS EXCEPTION.—This subsection shall not apply to an entity that is a small business (within the meaning of the Small Business Act).''.

(b) ANNUAL REPORT.—Section 2(b)(1)(A) of such Act (12 U.S.C. 635(b)(1)(A)) is amended by adding at the end the following: ''The Bank shall include in the annual report a description of the actions the Bank has taken to comply with subsection (f) during the period covered by the report.''.

(c) RECIPIENTS OF ASSISTANCE FROM THE EXPORT-IMPORT BANK TO BE PROVIDED WITH RESOURCES AND INFORMATION TO FURTHER ADHERENCE TO GLOBAL CODES OF CORPORATE CONDUCT.—The Export-Import Bank of the United States shall work with the Clearinghouse on Corporate Responsibility that is being developed by the Department of Commerce to ensure that recipients of assistance from the Export-Import Bank are made aware of, and have access to, resources and organizations that can assist the recipients in developing, implementing, and monitoring global codes of corporate conduct.

SEC. 11. RENAMING OF BANK AS THE UNITED STATES EXPORT BANK.

(a) AMENDMENTS TO THE EXPORT-IMPORT BANK ACT OF 1945.—

(1) The first section of the Export-Import Bank Act of 1945 (12 U.S.C. 635 note) is amended to read as follows:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'United States Export Bank Act of 1945'.''.

(2) The following provisions of such Act are amended by striking ''Export-Import Bank of the United States'' and inserting ''United States Export Bank'':

(A) Section 2(a)(1) (12 U.S.C. 635(a)(1)).

(B) Section 3(a) (12 U.S.C. 635a(a).

(C) Section 3(b) (12 U.S.C. 635a(b)).

(D) Section 3(c)(1) (12 U.S.C. 635a(c)(1)).

(E) Section 4 (12 U.S.C. 635b).

(F) Section 5 (12 U.S.C. 635d).

(G) Section 6(a) (12 U.S.C. 635e(a)).

(H) Section 7 (12 U.S.C. 635f).

(I) Section 8(a) (12 U.S.C. 635g(a)).

(J) Section 9 (12 U.S.C. 635h).

(3) The following provisions of such Act are amended by striking ''Export-Import Bank'' each place it appears and inserting ''United States Export Bank'':

(A) Section 2(b)(1)(A) (12 U.S.C. 635(b)(1)(A)).

(B) Section 3(c)(3) (12 U.S.C. 635a(c)(3)).

(b) DEEMING RULES.—Any reference in any law, map, regulation, document, paper, or other record of the United States to the Export-Import Bank of the United States is deemed to be a reference to the United States Export Bank, and any reference in any law, map, regulation, document, paper, or other record of the United States to the Export-Import Bank Act of 1945 is deemed to be a reference to the United States Export Bank Act of 1945.

SEC. 12. PROHIBITION AGAINST ASSISTANCE TO RUSSIA IF RUSSIA TRANSFERS CERTAIN MISSILE SYSTEMS TO THE PEOPLE'S REPUBLIC OF CHINA.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C 635(b)) is amended by adding at the end the following:

''(12) PROHIBITION AGAINST ASSISTANCE TO RUSSIA IF RUSSIA TRANSFERS CERTAIN MISSILE SYSTEMS TO THE PEOPLE'S REPUBLIC OF CHINA.—If the President of the United States is made aware that Russia has transferred or delivered to the People's Republic of China an SS–N–22 or SS–N–26 missile system, the President of the United States shall notify the Bank of the transfer or delivery. Upon receipt of the notification, the Bank shall not insure, guarantee, extend credit or participate in an extension of credit with respect to, or otherwise subsidize the export of any good or service to Russia.''.

SEC. 13. PROHIBITION AGAINST PROVISION OF ASSISTANCE FOR EXPORTS TO COMPANIES THAT EMPLOY CHILD LABOR.

Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is amended by adding at the end the following:

''(f) PROHIBITION AGAINST ASSISTANCE FOR EXPORTS TO COMPANIES THAT EMPLOY CHILD LABOR.—The Bank shall not guarantee, insure, extend credit, or participate in the extension of credit with respect to the export of any good or service to an entity if the entity—

''(1) employs children in a manner that would violate United States law regarding child labor if the entity were located in the United States; or

''(2) has not made a binding commitment to not employ children in such manner.''.

Mr. NICKLES. Mr. President, I move that the Senate disagree to the amendment of the House, agree to the request for a conference, and the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. D'AMATO, Mr. GRAMS, Mr. HAGEL, Mr. SARBANES, and Ms. MOSELEY-BRAUN conferees on the part of the Senate.

ORDERS FOR MONDAY, NOVEMBER 3, 1997

Mr. NICKLES. Mr. President, I ask unanimous consent when the Senate completes its business today it stand in adjournment until the hour of 12 noon on Monday, November 3. I further ask on Monday immediately following the prayer the routine requests through the morning hour be granted and there immediately be a period for the transaction of morning business until the

hour of 2:45 p.m. with Senators permitted to speak for up to 10 minutes each.

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

Mr. NICKLES. Under a previous order, at 2:45 p.m. the Senate will proceed to the nomination of Charles Rossotti to be the IRS Commissioner, with a vote to occur at 5:45 p.m. on Monday. I anticipate that following the 5:45 p.m. vote, the Senate will begin debate on a motion to proceed to consideration of Senate bill 1269, the so-called fast-track legislation.

AUTHORITY FOR COMMITTEES TO FILE REPORTS

Mr. NICKLES. I ask unanimous consent the committees have until 6 o'clock p.m. this evening to file reports on legislation.

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

PROGRAM

Mr. NICKLES. In conjunction with the previous unanimous-consent agreements, on Monday the Senate will begin a period of morning business from 12 noon until 2:45 p.m. At 2:45 p.m. the Senate will proceed to executive session to consider the nomination of calendar No. 351, Charles Rossotti to be Commissioner of the Internal Revenue Service. Under the previous consent, there will be 3 hours of debate upon the nomination, with the vote occurring at the expiration of that time. Therefore, Members can anticipate the first rollcall vote on Monday at approximately 5:45 p.m. Following that vote, the Senate will begin debate on the motion to proceed to Senate bill 1269, the fast-track legislation. The Senate may also consider and complete action on any or all of the following items: The D.C. appropriations bill, FDA reform conference report, Amtrak strike resolution, the intelligence authorization conference report, and any additional legislative or executive items that can be cleared for action.

As a reminder to all Members, today cloture was filed on both H.R. 2646, the A-plus education savings account bill, and the motion to proceed to 1269, the fast-track legislation. Those cloture votes will occur on Tuesday morning, and the leader will notify all Senators of the time of the cloture votes on Tuesday. Therefore, all first-degree amendments to H.R. 2646 must be filed Monday by 1 o'clock p.m. Needless to say, all Senators should expect rollcall votes during every day of the session next week.

ADJOURNMENT UNTIL 12 NOON MONDAY, NOVEMBER 3, 1997

Mr. NICKLES. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 3:22 p.m., adjourned until Monday, November 3, 1997, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate October 31, 1997:

DEPARTMENT OF JUSTICE

BEVERLY BALDWIN MARTIN, OF GEORGIA, TO BE U.S. ATTORNEY FOR THE MIDDLE DISTRICT OF GEORGIA FOR THE TERM OF FOUR YEARS VICE JAMES LAMAR WIGGINS, RESIGNED.

CENTRAL INTELLIGENCE AGENCY

ROBERT M. MCNAMARA, JR., OF MARYLAND, TO BE GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY. (NEW POSITION)

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS TWO, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

KENNETH A. THOMAS, OF OREGON

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF STATE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

NASIR ABBASI, OF MARYLAND
CHRISTOPHER ADAMS, OF CALIFORNIA
KELLY ADAMS-SMITH, OF NEW JERSEY
STEVEN P. ADAMS-SMITH, OF NEW JERSEY
STEPHEN J. AKARD, OF INDIANA
SALVATORE ANTONIO AMODEO, OF VIRGINIA
JONE M. BOSWORTH, OF NEBRASKA
MELANIE M. BOWEN, OF MASSACHUSETTS
ROXANNE CABRAL, OF VIRGINIA
MARK MINGE CAMERON, OF ALABAMA
HUNTER HUIE CASHDOLLAR, OF TENNESSEE
GARY L. CHILDS, OF INDIANA
MICHAEL S. COHEN, OF VIRGINIA
ANGELA COLYVAS, OF PENNSYLVANIA
R. SEAN COOPER, OF CALIFORNIA
ALAN EYRE, OF VIRGINIA
JOSEPH G. FEARN, OF VIRGINIA
PAUL MICHAEL FERMOILE, OF LOUISIANA
ANTHONY C. FERNANDES, OF MASSACHUSETTS
ERIC A. FICHTE, OF VIRGINIA
KATHRYN LAURA FLACHSBART, OF CALIFORNIA
KRISTINA A. GILL, OF TENNESSEE
DIANE M. GOODNIGHT, OF VIRGINIA
SANDRA GROOMS, OF VIRGINIA
MICHAEL WILLIAM HALE, OF VIRGINIA
NEAL J. HANLEY, OF VIRGINIA
ALI JALILI, OF VIRGINIA
DANIEL P. JASSEM, OF COLORADO
THOMAS TAN JUNG, OF WASHINGTON
DAVID JOSEPH JURAS, OF KENTUCKY
KIMBERLY A. KARSIAN, OF COLORADO
ALEXANDER I. KASANOF, OF NEW YORK
RIMA KOYLER, OF PENNSYLVANIA
LLOYD R. LEWIS, III, OF OHIO
MICHAEL J. MA, OF VIRGINIA
LAURA A. MALENAS, OF MARYLAND
PETER G. MARTIN, OF MASSACHUSETTS
EMILY T. METZGAR, OF MICHIGAN
DANA CHRISTIAN MURRAY, OF FLORIDA
KIM M. NATOLI, OF FLORIDA
KIRBY D. NELSON, OF IDAHO
GEORGE ARTHUR NOLL, OF RHODE ISLAND
QUI NGUYEN, OF CALIFORNIA
BRIAN JAY O'ROURKE, OF NEW MEXICO
TERESA D. PEREZ, OF TEXAS
STEVEN D. PRICE, OF CALIFORNIA
BARTON J. PUTNEY, OF WISCONSIN
DANIEL MICHAEL RHEA, OF VIRGINIA
JAMES SAMUELS, OF VIRGINIA
MITCHELL R. SCOGGINS, OF NORTH CAROLINA
KATHLEEN R. SEIP, OF VIRGINIA
SUSANNAH E. SILVERBRAND, OF MAINE
KIRK G. SMITH, OF WASHINGTON
W. AARON TARVER, OF LOUISIANA
CHRISTOPH J. WELSH, OF VIRGINIA
LOUISE M. WILKINS, OF VIRGINIA
MARC HERVERT WILLIAMS, OF NEVADA
CHARLES GRANDIN WISE, OF VIRGINIA

CONFIRMATION

Executive nomination confirmed by the Senate October 31, 1997:

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE,

To be lieutenant general

MAJ. GEN. JACK P. NIX, JR.