Budget Committee ever meeting the person. That is not a process, it seems to me, that is consultative. That is not a process in which both sides have come together to jointly figure out who has the stature and the ability and the authority to do this job.

So I am concerned about the process. I do not think this is the right process. I really think with the Director of the Congressional Budget Office, there ought to be a resolution of approval by both the House and the Senate. I know that is not the current circumstance. But I intend to offer an amendment that would require that. I hope very much that at this juncture the majority would not appoint a Director at this point until I have had an opportunity to offer the resolution. I probably will offer it and discuss it on this amendment, although it would be better to offer it to the very next bill that comes to the floor of the Senate after the balanced budget amendment.

But I, as others, am concerned and want to speak on it. I want to make a case about the process. My case is not a case that says this person is the wrong person. I do not know. But I know that whoever heads CBO is going to have an impact on my legislative life and an impact on the legislative life of everyone in this body and in the House. And I would like very much for the selection of the new head of the CBO to be a selection that represents a consensus between the majority and the minority; a consensus on two points:

First, that this person is someone of great quality, who is at the top of the field and has the credentials to command respect;

And, second, that this person is someone who will provide an impartial analysis of the type that we have been used to.

I must admit that I, like probably the Senator in the chair, have from time to time had to hold my brow as I received something from CBO. I have said, "Lord, I do not agree with that. That is not the answer I was looking for." But I respect Mr. Reischauer. I respect Mr. Penner. I respect Alice Rivlin. I do not know the current candidate. And I am not making judgments here. But I am making judgments about the process. This process is wrong. It is a flawed process when we have circumstances where the appointment is announced prior to the minority ranking member even being able to discuss particulars with the candidate.

I am not going to talk about the process on the Senate side. But I do know that the minority on the Senate side of the Budget Committee sent a letter saying we think we should look further for other candidates. So they obviously were making some kind of a judgment. I think that we ought not proceed until we have responded to this as a body. I hope very much that prior to my offering the amendment when we return, that the majority will not proceed to make this appointment.

Again, let me emphasize for the third time as I take the floor that I do not intend to make a judgment about this candidate at this point. I may at some point. But I do not know enough to make a judgment. I know what I have read in the papers. I have been in politics long enough to understand that that is not enough. I want to understand the facts. I want to understand the circumstances and the quality of this candidate. But I also want to understand that when we finish this process the selection of this very important person will be a selection by consensus among the majority and minority of the House and the Senate. I do not think that is the case today.

So, I had intended to offer this amendment today and because other amendments took most of the day, this will be put over until next week, or whenever we return—I guess the first legislative day when we return. But I wanted to take the floor at this moment to alert my colleagues that I intend to do this, and to urge the majority not to proceed until we have had a chance to express ourselves on this issue.

Mr. President, I appreciate the Senate's indulgence.

I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I would like to talk as we end this third week of debate on the balanced budget amendment about the importance of this vote and what it really means to America.

I have listened for the last 3 weeks to the debate, and I want to say that I think we are in a filibuster. I think there can be no doubt of it. Our leader has been patient. Senator DOLE wanted everyone to have an opportunity to have his or her say to talk about the issue, because it is a major issue. It is probably the most important vote I will ever make in my career.

I think the leader has given ample time for every person to talk about views, to differ on views, and to put in amendments. I think Senator HATCH and Senator CRAIG, who are the distinguished managers of this joint resolution, have been very patient. But this is a filibuster, and there is a fundamental difference about whether we should move forward with the mandate that we have to change the things we have been doing in Washington, or whether we are in fact doing what we have been doing year after year after year in this Congress—that is, spending beyond our means. That is what has been happening.

We are at the end of the third week of debate. All of us who support the balanced budget amendment thought we would be finished, thought we would leave town for a 3-day recess knowing that we had done the most important thing we could do for the future of our children and grandchildren. But we are not there yet. We are not there because there is a fundamental difference and because many who disagree with the balanced budget amendment have decided to delay it through filibuster.

I support the right of everyone to delay. That is part of the Senate rules. But I think it is time to call it what it is. I think it is time that people realize this is a delaying tactic, that we are no longer into substantive differences—and reasonable people can differ—we are into trying to delay what clearly the majority of this body wants to do, and that is to say that we are going to amend this Constitution and say to future generations: You are not going to have to pay our bills.

Every baby that is born into this country has an $18,000 debt to pay. That is what we have racked up with our over $4 trillion of debt. Some people say, "Let us do it by statutes. We can pass laws, we can act responsibly." And, of course, we point out that over the last 30-plus years we, in fact, have not been able to do that. So if you put the practical experience in the mix, it is clear that we are not going to do it by statute.

But let us talk about what is the role of the Constitution of our country. The Constitution of our country should not be something that we can do by statute. It should be the framework of our Government. It should be what we think the parameters of our Government should be, not for the 104th Congress, but for all the Congresses in the future—something that is so well settled in our policies that it should not be subject to change. That is what we are debating, whether we will amend our Constitution with a fundamental policy decision that should not be changed by future generations.

Mr. President, that is what a balanced budget amendment is, and it does meet the test. It should be a fundamental policy of this country that we will not spend money we do not have, unless we are in a crisis, in a war, and that is the exception—the one exception—that all of us would agree to. Other than that, we are not going to spend money we do not have for programs that we would like, for programs that are good programs, but programs we do not have the money to pay for.

It comes down to the fundamentals that every State, every city, every business, and every household in America understands, and that is: I would like to take my family to dinner tonight, but maybe I do not have the money to do it and I have to make that decision based on whether I have the discretionary money to do it. I would like to send my child to college. Do I have the funds to do it? I would like to have many things that, perhaps, I cannot afford and therefore I do not acquire. That is a fundamental decision that every American makes every day. The only American institution that really does not is the United States Government. That is a fundamental policy that we must put in place that should not change with the wind or the times—that is, that my priorities are more important than the priorities of future Congresses.

I think it is very important, as we leave today for this recess, that the people of America understand that this is a filibuster. The people who are doing it have the perfect right to do it, but they are delaying this vote; they are delaying what I think the people of America want, what they have said repeatedly they want, and that is for us to start the very tough process of balancing our budget over the next 7 years, so that by the year 2002, if we start right now, we will be able to then begin the adventure of being able to pay back the $4 trillion debt, so that we will not be in that continuing deficit position.

In fact, I think that if we do not act on this in the next week when we get back, it is not that it will pass in time and we will not pass it ever again. I disagree with people that say this is our only chance. I think if we do not pass it this time, we will have a bigger mandate in 1996 and we will pass it. The difference will be, Mr. President, that we will have 2 more years of accumulating debt, and we have seen the charts for the last week showing every day that we have been debating and talking and talking in the Senate debating society, the debt has gone up because we have not begun to turn that ship on a different course.

So if we do not do it this year, we will do it 2 years from now, 3 years from now, because we will have the mandate. But we will have missed 2 years of opportunity to begin this process of responsibility for our future generations. That is what we will miss if we fail to do so.

So as we leave these hallowed halls, I hope all of us will think carefully about the monumental decision that we will make next week to stop this filibuster, to stop the delays, to stop the nuance differences and say that we are going to take this first step of amending the greatest Constitution that has ever been written in any society in all of civilization; that we are going to amend it with a fundamental policy decision of responsible spending, to protect our future generations from our decisions, which may not be theirs.

So it is a great opportunity for us, and I hope all of us will go home and come back next week ready to make the decision that is ours to make, to change the course of this country and begin the process of responsible governing.

Thank you, 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. BREAUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, and I be allowed to speak out of order.

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

OIL RELIANCE THREATENS NATIONAL SECURITY

Mr. BREAUX. Mr. President, and my colleagues, I would think that if any government is presented with evidence that their country is under a national security threat that they would institute immediately a full-scale investigation to determine what the threat is and what action is needed to prevent that threat from becoming an all-out emergency, or a conflict that we could not ultimately solve. That is the purpose of government. Ultimately to protect the security of the citizens of our country.

Therefore, when I read a release that I received today from the United States Department of Commerce which clearly states that they have made a finding that growing U.S. reliance on oil imports threatens the national security of the United States by making it vulnerable to interruptions in foreign oil supplies, I would immediately gather all of my advisers around me and say, "All right, what are we going to do about this?"

I am deeply disturbed that as I read the release and talk to people who know about this problem and find that, essentially, nothing is being done. I think we as a Nation are making a terrible mistake.

Let me try and point out what I think the problem is in a very clear fashion. If we in this Nation were suddenly told that we are now importing 50 percent of all of the food that we consume in this country, and much of it from nations that are very undependable as far as being allies of the United States, I would predict that the next day there would be lines of people surrounding the White House and surrounding this Capitol saying, "My goodness, this is a terrible threat that we are now having to import half of the food that we consume from countries that are not dependable as allies of the United States."

Yet this is exactly what is happening when it comes to energy security. I will tell Members how this came about, Mr. President. That is, that the Department of Commerce, under existing rules and regulations, were responding to a petition that was filed by the Independent Petroleum Association of America that was filed on March 11, 1994, alleging that "Increasing U.S. dependence on foreign oil threatened the national security of the United States."

They pointed out in their request that imports of crude oil products were estimated through 1994 to average 8.8 million barrels of foreign oil coming into the United States every day. This represents a 200,000-barrel-a-day increase compared to 8.6 million barrels a day in 1993.

The estimated import ratio has now, for the first time ever, broken the peril point level of 50 percent of foreign imports coming into this country.

There is no dispute about that fact. The IPAA presented information. No one objected to that. The Commerce Department finds, after looking at all this information, clearly that U.S. reliance on oil imports now threatens national security by making us vulnerable to interruptions in foreign oil supplies.

The Commerce Department recommended, however, that the President not use his authority that he has under section 232 of the Trade Expansion Act of 1962 to adjust these foreign oil imports through the imposition of tariffs, because the economic costs of such a move outweigh the potential benefits and because current administration energy policies will limit the growth of imports.

Mr. President, I disagree with that, and I disagree with it strongly. I think current administration energy policies in this administration, in the last administration and in the administration before that, in Republican administrations and in Democratic administrations, have clearly allowed us to get to the point where today we are importing half of the oil that we use in this country.

I guess it has been an easy thing for administrations to do because we have been getting cheap oil, but does anybody remember what happened in the early 1970's when we had lines of Americans sitting in their cars waiting to buy the precious gas that was left at the stations to run their cars and run this country? Because at that time, the Middle Eastern oil suppliers turned the faucets off just a little bit and literally brought this country to our knees, because at that time, we were importing about 30 percent of the oil we use.

Today, we are importing 50 percent, and just turning that faucet a little bit in 1995 will bring this country to our knees in a much more serious fashion than we were brought to our knees in 1973.

Unfortunately, it seems that all the administrations since then did not learn the lesson, and the lesson is very simple: That we should never be dependent on something that is important to our national security; we should never be dependent on other nations to supply it, particularly nations that are not necessarily our friends nor our allies, that we cannot trust to be reliable when we have a need for a product that they have, whether it be food, as I mentioned earlier, or whether it be energy to run our plants, our factories, to heat our homes, to cool our homes in the summer, to run our cars, to run our trucks, to keep up with the commerce demands of a great Nation.

Yet today, for all of those needs, we are now dependent on foreign nations for over half of those energy needs. And the thing that bothers me the most is that after recognizing that there is a national security threat—and these are not my words, these are the words of the Commerce Department when they made the findings—that the situation today presents a national security threat to the United States but we are not going to do anything in terms of setting a tariff to try and reduce the amount of imports coming in in order to encourage greater domestic exploration and production right here in this country.

I think that that is something that is not acceptable, because there are some things that we can do. I do not suggest that maybe oil import tariffs are the only answer. I have advocated them for a number of years. But there are a lot of other things that they could have said we are going to recommend that needs to be done, other than just saying we are going to rely on current policy. Because, folks, it is clear that current policy has us in the predicament we are in. Current policy has allowed us to have imports increase up to the point where they now constitute 50 percent of all the energy we have in this country.

Imports increased this year from last year by 200,000 barrels a day more than the year before. That is under current policy. And to say that we are going to continue to stay with current policy, there is no trend line to suggest that is going to solve the problem. The trend line is that imports will continue to increase under current policy.

So I suggest to my friends in this administration that they take the Commerce Department's findings that there is a national security threat to make some recommendations on new things that should be done in order to prevent a national catastrophe from falling on this country.

I suggest that there are a number of things that I would have hoped that the administration would have been able to say we are recommending instead of maintaining the status quo.

First, they could have recommended that the administration will actively support what the industry calls geological and geophysical expensing, which simply says that oil and gas operators in this country would be able to expense the cost of exploring and producing a well, whether that well is a dry well, a dry hole, which they can do now, or whether it is a producing well. That would encourage a substantial increase in domestic production in this country to reduce that 50 percent number to what would be a more acceptable number.

I look over the recommendations and that is not there.

They could have, second, suggested that we move toward and support OPRA 90 reform. OPRA is the Oil Pollution Act that this Congress passed in 1990, but the way it is being implemented is not the way this Congress intended it to be implemented, and legislation is necessary to clarify what we meant. Here is the simple problem:

Congress never intended when we passed that Oil Pollution Control Act that onshore facilities would have to carry insurance of $150 million per well. We were talking about major offshore activity that had the potential to pollute if a catastrophic event occurred. We never intended that any facility onshore that may be very, very small, with only very limited potential to cause any pollution, would also have to have $150 million of liability insurance. But that is how our folks in the bureaucracy have interpreted it.

An amendment, a legislative fix for this problem would allow independent operators who produce oil onshore to do it in a fashion that they could afford. We are going to run independents out of business if we do not do something legislatively to fix this problem. That would have been the second thing that could have been recommended and should have been recommended.

The third is to have recommended some type of broad-based royalty reform to encourage exploration and production in difficult areas where it is more expensive to find oil, where many times a day it costs more to explore than it would pay them if they found a producing well, because the price of oil per barrel, partly because of cheap foreign imports, is less than it costs to find that oil. Broad-based royalty relief would have made a major impact on helping to increase domestic production. But there is no recommendation for that type of activity.

The fourth is to do something about the Alaska export ban on oil that is produced in Alaska. When Congress passed that law saying that oil that is found in Alaska could never be exported outside the United States, it probably made sense at that time. But it does not make sense today.

If oil from Alaska can be sold in other areas at a higher price, it would give companies greater amounts of money to explore for and find additional fields domestically in North America—in Alaska, in the gulf coast area—which would increase the domestic production and thereby lower that 50 percent import figure that we have.

Mr. President, not one of those proposals, not one of those initiatives is found in the Commerce Department's finding and recommendation as to what should be done.

I will just close by saying that it is insufficient, in my opinion, for a department of our Government to make a finding that there is a national security threat to this Nation, which they have made, and then to say we are not going to recommend anything new to address that threat. That is an abdication of responsibility. It is unacceptable. This Member, and I know other Members, will take their finding and offer constructive suggestions to, in fact, address what is now clearly established as a national security threat to the United States of America.

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

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

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

Mr. CONRAD. Mr. President, I will be very brief so that colleagues will know that we can end the day, especially the desk staff will know that they can get home to their loved ones.

I did want to bring to the attention of my colleagues that yesterday in the Budget Committee, when Secretary Christopher was there, inadvertently a Republican staff document was attached to part of his testimony and was handed out. I might say that it is a very interesting document. The document that has been prepared by the majority on the Budget Committee shows function 150, International Affairs. It is headlined, "Fiscal Year 1996 Balanced Budget Resolution." Down in the corner it says, "For Internal Purposes Only." But it was handed out inadvertently.

What I think is interesting about this document is it suggests that the majority has a plan to move towards a balanced budget, and I commend them for that. I hope they do have a plan. But I would say to my colleagues that if they have a plan, then we should revisit the question of the right to know provision that we sought to add to the balanced budget amendment.

We sought to add a provision that called on the Republican majority to produce their plan on how they intended to balance the budget so that the States could be advised of that before they had to vote to ratify it, and so that our colleagues who are about to vote on a balanced budget amendment could know what was the outline of the plan.

The Republican majority resisted that right-to-know effort by saying they could not say what a long-term plan was because there were so many things, it would be hard to determine and hard to project and hard to forecast. And yet we find in this document, which was released inadvertently, that at least with respect to one function of the budget they do have a detailed plan, very specific as to what they have in mind; terminating a set of programs, reducing other programs in order to reduce the 150 function, which, of course, is the international affairs function.

This suggests at the very least that other functions for other areas have a plan, something that is in the works, something that is available, that could provide some guidance as to where the majority is going with respect to a plan to balance the budget over the next 7 years.

I would just say to my colleagues that if in fact there are plans for other functional areas, as there clearly is for the international affairs section, we ought to have a chance to see it. We ought to have a chance before we vote on a balanced budget amendment. The American people ought to have a chance to see what the plan is.

What does the Republican majority have in mind for how they intend to balance this budget? I think that would certainly influence some votes in this debate.

Let me just say that I am one Member who is undecided on the question of how I will vote on a balanced budget amendment. I am not being coy. I am seriously undecided at this point. I want to see what is the final provision on which we will vote.

Let me just add that I am absolutely convinced we must balance the budget in the next 7 years. It is absolutely imperative that we do so. Whether we have a balanced budget amendment to the Constitution or not, this Senator believes we have to balance the budget because we have a window of opportunity here before the baby boomers retire, at which time Government spending will skyrocket. And that will put enormous pressure on the economy of this country.

So we have a chance here in the next 7 years to get our fiscal house in order. That must be done. But I have reservations about the elements of this constitutional amendment in terms of the provision that would provide for looting the Social Security trust fund in order to balance the operating budget, the involvement of courts. The last thing I wish to see happening is the Supreme Court of the United States writing the budget of the United States. No judge was ever elected to do that.

I am also concerned about the lack of a capital budget. The vast majority of States that have a balanced budget requirement provide for a capital budget. You can pay for big investments over a period of time. That is what State governments do. That is what we do in our own personal lives. I know very few people who buy a house for cash. Most people take out a mortgage.

So those are, I think, legitimate concerns. But beyond that, I think we also have the question of how we do it. How do we balance the budget? And if our Republican colleagues, in fact, have a plan, one that they have not released and not revealed—and I think the fact that they clearly have one with respect to one function of the budget suggests they probably have it for other functions of the budget—that is something that could form the basis for an important discussion and debate about how we accomplish a balanced budget.

Let me just conclude by saying I would very much like to see us structure a means to require both sides to put down a plan to balance this budget simultaneously.

What is going on is we have a bit of Alphonse and Gaston, the chicken and the egg; nobody wants to go first. And I am working on legislation now that would require us, if the balanced budget amendment fails, to have the budget committees of both Houses and the President put down a plan to balance the budget over the next 7 years and to lay it down by May 1—have both sides be required to come to the table and lay down their plans to balance the budget. It is clear to me now the Republican majority is working on such a plan. Perhaps they have one completed, at least in preliminary outline. I think it would be very important for that to be shared with our colleagues and with the rest of the country as we consider this very important matter of a balanced budget amendment to the Constitution.

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

The PRESIDING OFFICER. The clerk will call the roll.

The 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.

SENATOR J. WILLIAM FULBRIGHT

Mr. BYRD. Mr. President, I was sworn in as a Member of this body on January 7, as I recall, 1959, the 1,579th Member to have been elected or appointed to the Senate since its beginning on March 4, 1789. As of today, 1,826 men and women have borne the title of United States Senator. When I came to the Senate, some of the other Members were Clinton P. Anderson of New Mexico, Styles Bridges of New Hampshire, Paul Douglas of Illinois, Allen Ellender of Louisiana, Hubert Humphrey of Minnesota, Lyndon Johnson of Texas, Estes Kefauver of Tennessee, Richard Russell of Georgia, Lister Hill of Alabama, George Aiken of Vermont, Everett McKinley Dirksen of Illinois, Carl Hayden of Arizona, Wayne Morse of Oregon, Harry Flood Byrd, Sr. of Virginia, Spessard Holland of Florida, Henry Jackson of Washington, John F. Kennedy of Massachusetts, William Langer of North Dakota, Robert Kerr of Oklahoma, and others, including J. William Fulbright of Arkansas.

All of these men have now passed from this earthly stage and gone on to their eternal reward. The last of these whom I have mentioned, Bill Fulbright, died last week.

J. William Fulbright was born in Sumner, MO, on April 9, 1905, and moved with his parents to Fayetteville, AR, the following year. He attended the public schools in Arkansas and graduated from the University of Arkansas at Fayetteville in 1925; as a Rhodes Scholar from Oxford University, England, in 1928, and from the Law Department of George Washington University, here in Washington, DC, in 1934. He was admitted to the District of Columbia Bar in 1934, and served as an attorney in the U.S. Department of Justice, Antitrust Division, in 1934–1935. He was an instructor in law at the George Washington University in 1935, and he was a lecturer in law at the University of Arkansas during the years 1936–1939. He served as President of the University of Arkansas from 1939 to 1941. He was engaged in the newspaper business, in the lumber business, in banking, and in farming, and was elected as a Democrat to the 78th Congress, where he served from January 3, 1943, to January 3, 1945. He was not a candidate for renomination to the House, but was elected to the United States Senate in 1944, and re-elected in 1950, 1956, 1962, and in 1968, where he served until his resignation on December 31, 1974. He was an unsuccessful candidate for renomination in 1974. He served on the Committee on Banking and Currency in the Senate and on the Committee on Foreign Relations.

Bill Fulbright was an outstanding Senator. He served with many other outstanding Senators, some of whom I have named as having ended their sojourn in this earthly life, and there were other extraordinary men such as John Pastore of Rhode Island, Mike Mansfield of Montana, and Russell Long of Louisiana, all of whom are still among the living. But I have taken the floor today to say that one by one, the old landmarks of our political life have passed away. One by one, the links which connect the glorious past with the present have been sundered.

"Passing away!
'Tis told by the leaf which chill autumn breeze,
Tears ruthlessly its hold from wind-shaken trees;
'Tis told by the dewdrop which sparkles at morn,
And when the noon cometh

'Tis gone, ever gone."

It was my pleasure to serve with Senator Fulbright. I always held him in the highest esteem. He was a gentleman with great courage and unwavering patriotism, a wise and courageous statesman, affable in his temperament, and regarded as one of the outstanding lawyers in the Senate and one of the best informed upon questions regarding international affairs. He was both morally and intellectually honest, simple in his habits, and devoid of all hypocrisy and deceit. He never resorted to the tricks of a demagog to gain favor and, although he was a partisan Democrat, he divested himself of partisanship when it came to serving the best interests of his country. Peace to his ashes!

The potentates on whom men gaze
When once their rule has reached its goal,
Die into darkness with their days.
But monarchs of the mind and soul,
With light unfailing, and unspent,
Illumine flame's firmament.

Socrates, Plato, Aristotle, Cicero, and other great Grecian and Roman philosophers, by pure reason and logic arrived at the conclusion that there is a creating, directing, and controlling divine power, and to a belief in the immortality of the human soul. Throughout the ages, all races and all peoples have instinctively so believed. It is the basis of all religions, be they heathen, Mohammedan, Hebrew, or Christian. It is believed by savage tribes and by semi-civilized and civilized nations, by those who believe in many gods and by those who believe in one God. Agnostics and atheists are, and always have been, few in number. Does the spirit of man live after it has separated from the flesh? This is an age-old question. We are told in the Bible that when God created man from the dust of the ground, "He breathed into his nostrils the breath of life, and man became a living soul."

When the serpent tempted Eve, and induced her to eat of the forbidden fruit of the tree of knowledge, he said to her, "ye shall not surely die."

Job asked the question, "If a man die, shall he live again?" Job later answered the question by saying, "Oh, that my words were written and engraved with an iron pen upon a ledge of rock forever, for I know that my redeemer liveth and someday He shall stand upon the Earth; and though after my skin worms destroy this body, yet in my flesh shall I see God; whom I shall see for myself and mine eyes shall behold, and not another; though my reins"—meaning my heart, my kidneys, my bodily organs—"be consumed within me."

Scientists cannot create matter or life. They can mould and develop both, but they cannot call them into being. They are compelled to admit the truth uttered by the English poet Samuel Roberts, when he said:

"That very power that molds a tear
And bids it trickle from its source,
That power maintains the earth a sphere
And guides the planets in their course."

That power is one of the laws—one of the immutable laws, the eternal laws—of God, put into force at the creation of the universe. From the beginning of recorded time to the present day, most scientists have believed in a divine creator. I have often asked physicians, "Doctor, with your knowledge of the marvelous intricacies of the human body and mind, do you believe that there is a God?" Not one physician has ever answered, "No." Each has answered, readily and without hesitation, "Yes." Some may have doubted some of the tenets of the theology of orthodoxy, but they do not deny the existence of a creator. Science is the handmaiden of true religion, and confirms our belief in the Creator and in immortality.

"Whoever plants a seed beneath the sod
And waits to see it break away the clod
Believes in God."

Mr. President, as Longfellow said, "It is not all of life to live, nor all of death to die." Rather, as Longfellow says:

"There is no death! What seems so is transition;
This life of mortal breath
Is but a suburb of the life Elysian,
Whose portal we call death."

Mr. President, life is only a narrow isthmus between the boundless oceans of two eternities. All of us who travel that narrow isthmus today, must one day board our little frail barque and hoist its white sails for the journey on that vast unknown sea where we shall sail alone into the boundless ocean of eternity, there to meet our Creator face to face in a land where the rose never withers and the rainbow never fades. To that bourne, from which no traveller ever returns, J. William Fulbright has now gone to be reunited with others who once trod these marble halls, and whose voices once rang in this Chamber—voices in this earthly life that have now been forever stilled. Peace be to his ashes!

I recall the words of Thomas Moore:

"Oft, in the stilly night,
Ere slumber's chain has bound me,
Fond Memory brings the light
Of other days around me:
The smiles, the tears
Of boyhood's years,
The words of love then spoken;
The eyes that shone,
Now dimm'd and gone,
The cheerful hearts now broken!
Thus, in the stilly night,
Ere slumber's chain has bound me,
Sad Memory brings the light
Of other days around me.

When I remember all
The friends, so link'd together,
I've seen around me fall
Like leaves in wintry weather,
I feel like one
Who treads alone
Some banquet-hall deserted,
Whose lights are fled,
Whose garlands dead,
And all but he departed!
Thus, in the stilly night,
Ere slumber's chain has bound me,
Sad Memory brings the light
Of other days around me."

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. SNOWE). Without objection, it is so ordered.

Mr. MURKOWSKI. Madam President, I ask unanimous consent to speak as in morning business for a reasonable period.

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

INCREASED DEPENDENCE ON IMPORTED OIL

Mr. MURKOWSKI. Madam President, I just have been advised of the release by the White House of the Department of Commerce's findings concerning the question of our increased dependence on imported oil. Today in that report, our President reported to the Congress that, indeed, our growing dependence on imported oil is a threat to our national security. However, it is rather disturbing to note that the President failed to propose any new action, direct or indirect, to alleviate this threat. It is the opinion of this Senator from Alaska that such action is unprecedented and wholly unacceptable.

I ask unanimous consent that the press release be printed in the RECORD.

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

[From the White House, Office of the Press Secretary, Feb. 16, 1995]

STATEMENT BY THE PRESIDENT

I am today concurring with the Department of Commerce's finding that the nation's growing reliance on imports of crude oil and refined petroleum products threaten the nation's security because they increase U.S. vulnerability to oil supply interruptions. I also concur with the Department's recommendation that the Administration continue its present efforts to improve U.S. energy security, rather than to adopt a specific import adjustment mechanism.

This action responds to a petition under Section 232 of the Trade Expansion Act of 1962, which was filed by the Independent Petroleum Association of America and others on March 11, 1994. The Act gives the President the authority to adjust imports if they are determined to pose a threat to national security. The petitioners sought such action, claiming that U.S. dependence on oil imports had grown since the Commerce Department last studied the issue in response to a similar, 1988 petition.

In conducting its study, the Department led an interagency working group that included the Departments of Energy, Interior, Defense, Labor, State, and Treasury, the Office of Management and Budget, the Council of Economic Advisers, and the U.S. Trade Representative. The Commerce Department also held public hearings and invited public comment. Following White House receipt of the Commerce Department's report, the National Economic Council coordinated additional interagency review.

As in the case of its earlier study, the Commerce Department found that the potential costs to the national security of an oil import adjustment, such as an import tariff, outweigh the potential benefits. Instead, the Department recommended that the Administration continue its current policies, which are aimed at increasing the nation's energy security through a series of energy supply enhancement and conservation and efficiency measures designed to limit the nation's dependence on imports. Those measures include:

Increased investment in energy efficiency.

Increased investment in alternative fuels.

Increased government investment in technology, to lower costs and improve production of gas and oil and other energy sources.

Expanded utilization of natural gas.

Increased government investment in renewable energy sources.

Increased government regulatory efficiency.

Increased emphasis on free trade and U.S. exports.

Maintenance of the Strategic Petroleum Reserve.

Coordination of emergency cooperation measures.

Finally, led by the Department of Energy and the National Economic Council, the Administration will continue its efforts to develop additional cost-effective policies to enhance domestic energy production and to revitalize the U.S. petroleum industry.

Mr. MURKOWSKI. Madam President, if we look at the specifics of the recommendation, as indicated in the press release, the specific highlights include increased investment in energy efficiency, certainly a worthy and laudable goal; increased investment in alternative fuels, likewise; increased Government investment in technology to lower costs and improve production of gas and oil and other energy resources; expanded utilization of natural gas; increased Government investment in renewable energy sources; increased Government regulatory efficiency; increased emphasis on free trade and U.S. exports; maintenance of the Strategic Petroleum Reserve which, obviously, is there for emergencies; and coordination for emergency cooperation measures.

Notable by its absence is any mention of efforts to stimulate domestic drilling and production in the United States. I find that extraordinary. I wonder just who is advising the President. I cannot believe that the President himself does not support domestic exploration, development, the creation of jobs. One of the bases of America's industrial might has been our ability to produce energy sources, specifically oil and gas. But there is no mention of exploration for oil. There is no mention of stimulating exploration in the Gulf of Mexico where a good portion of our current resources are coming from.

As we go deeper out in the gulf and invest in new technology, it requires greater engineering, greater risk, but, obviously, the industry is willing to make those commitments and that investment. This is what we call deepwater drilling. It requires substantial capital and substantial incentives.

Furthermore, we have frontier areas where onshore there are no pipelines, no infrastructure, and to encourage the industry to go in those areas and explore, again, may require some concessions, some type of moratorium relative to the application of taxation.

None of these are mentioned, and I find that rather curious. We have the overthrust belt; no mention of opening up areas for oil and gas exploration.

It is rather curious, and I guess it is appropriate, that I be a little sensitive on this because my State of Alaska has been supplying this country with about 24 percent of the total crude oil that is produced in the United States for the last 16 to 17 years. That area where most of that oil comes from is called Prudhoe Bay. It is a huge investment by three major international companies—Exxon, BP, and ARCO. They operate the fields. They produce about 1.6 million barrels of oil per day. That is down from approximately 2 million barrels a few years ago. The field is declining. But the significance is, as it declines we are increasing our imports.

Where do our oil imports come from? Why, it comes from the Mideast. It comes to our shores in foreign flag ships, manned by foreign crews. Many of the corporations that operate those ships are relatively alike in their corporate structure. Some suggest they are even shell corporations.

It is interesting to look at our trade deficit, Madam President, of about $167 billion. A good portion of that is Japan, a portion of it is China, but almost half is the price of imported oil. So we are exporting our dollars, exporting our jobs and becoming more and more dependent on other parts of the world.

I find this trend relatively unnerving; that we should have to depend to such an extent on imported petroleum products and then recognize that it is called to our attention by this special study done by the Department of Commerce that we have been waiting for an extended period of time to identify that, indeed, our national security interests are at stake.

I look at my State of Alaska with the potential to supply more oil as Prudhoe Bay declines, and it is rather ironic, Madam President, that on this floor today was a bill to take the most promising area in North America, namely, ANWR, and put it in a permanent wilderness.

We have always had a difficult time trying to keep Alaska in perspective relative to its size and the type of development and the control that our State as well as the Federal agencies have in developing the resources from the North Slope and the Arctic. And as we reflect on that, the technology that developed Prudhoe Bay is now 20 to 25 years old, but some new technology came along about 10 years ago and resulted in the development of a field called Endicott. Endicott was an expansion of Prudhoe Bay in one sense, but the technology was entirely new. It came on as a production facility, the 10th largest producing field in the United States, at about 107,000 barrels a day. Today it is the seventh largest at about 120,000 barrels a day. But that technology, Madam President, resulted in a footprint of 56 acres. That is a pretty small area. That is the size of the footprint. But the contribution to our energy security, our jobs, was significant.

The last area that has been identified by geologists as potentially carrying the capability of a major discovery is ANWR, but what are the parameters of ANWR?

First of all, there are about 19 million acres in the area. Over 17 million acres are basically set aside in wilderness in perpetuity. That is a pretty good-sized chunk of real estate. We are looking at an area the size of Oregon and Washington put together. Industry tells us that if they can find the oil necessary to develop the field—and they have to find a lot of oil because you do not develop small fields in the Arctic—the footprint would be about 12,500 acres. To put that in perspective, that is about the size of the Dulles International Airport complex in Virginia, assuming the rest of Virginia were a wilderness.

The arguments against opening ANWR are the same arguments that prevailed nearly 20 years ago when we talked about opening Prudhoe Bay: What is going to happen to the caribou? What is going to happen to the moose? What is going to happen to the wildlife?

Well, we have had some 17 or 18 years to observe the process. The caribou herds in Prudhoe Bay were 4,000 to 5,000; now they are 17,000 to 18,000. The growth of those herds is as a consequence of the realization that those areas are absolutely off limits to subsistence hunting of any kind. The Eskimo people in the region do not hunt in those areas, and caribou is a very adaptable animal. If chased down by a snow machine or hunter, obviously it runs away. The common sight of modest activity associated with exploration and development has absolutely no effect. A person can go up there today and observe this process.

So as we reflect on what some of the alternatives are, I wonder if we are really not selling America short. As I said before, they are the same arguments of 17 years ago we are hearing today, that somehow this is the

Serengeti of the Arctic—12,500 acres out of 19 million acres is what we are talking about—somehow the native people of the area will be affected. But I can tell you, Madam President, the native people of the area have been given an opportunity that they never had before, and many of them have chosen the opportunity to have gainful employment, have a tax base, have first-class schools. Schools in Barrow, AK, are the finest schools in the United States, bar none. In areas where we have intense climates, we have indoor play areas. As a consequence of the contribution of oil and the fact that the native people have been able to tax the oil, have been able to tax the pipeline, they have been able to have an alternative to a subsistence lifestyle which jobs offer but never would have been prevalent in the area.

I think we are shortchanging America's ingenuity to suggest we cannot open it safely. There is absolutely no scientific evidence to suggest that we cannot open it safely. The technology is advanced. The footprint is smaller. The environmental concerns, the restoration, are all set in place by the State and the Federal Government. So the risk is diminished dramatically. So why the hesitation?

Well, to some degree, Madam President, it is associated with a cause, and that cause is that Alaska is far away. ANWR has been identified by many of the national environmental groups as an issue where they can challenge; people cannot go up there and see for themselves. It generates revenue. It generates a cause. And as a consequence, they would suggest to you that this area cannot be opened up safely. They do not address the opportunities for employment, the opportunities for new engineering technology and expertise but, rather, that Americans cannot meet a challenge. I find this very, very distressing, but it is something that perhaps Alaskans and others who come from energy States have become uncomfortably accustomed to.

Now, where do we go from here, Madam President? Well, I happen to be chairman of the Energy and Natural Resources Committee, and we are going to hold a number of hearings on this matter as we look at our growing dependence on imported oil and the effect that it has on our national security and look to alternatives.

But, Madam President, we are not going to look to the alternatives suggested by the White House, which are nothing but words.

I can remember coming into this body in 1981 when we were running in the high 30's, low 40's percentile dependence on imported oil. There was concern then. There was an expression if it ever got to the area where it would be approaching 50 percent we would have to do something drastic, we would have to stimulate our industry somehow with incentives. But we went on and on and became more dependent and now 51 percent of our total consumption is imported oil. And now we are told that our national security is at stake.

Out of these hearings I hope we get the experts—not the wordsmiths from the White House who are simply selling America short, relative to its capability to produce additional discoveries of oil and gas within the United States. It is truly distressing to read this report. We knew it was coming. We suspected what it said. And each time we made an inquiry we were advised that the report was still under review because the administration chose, for obvious reasons, to put it off as long as they could. I find it rather coincidental that it comes in at a time when we are almost out for the Presidents' Day extended weekend.

But I think it is time for this body and the other House to reflect on the reality associated with a segment of America's traditional industrial might that the administration proposes to remove from the passing scene and become more dependent on imports and export more dollars and more jobs offshore.

This is not unique to the oil industry. To some extent it follows with the administration's attitude towards domestic mining. But I will save that analysis for another day.

I am pleased the Independent Petroleum Association of America has pursued this matter. I think their President, Mr. Dennis Bode, has made a very commendable and meaningful contribution to bring this report before us. I hope the Energy Coalition, that is made up of both Members of the House and Senate, will reflect upon this report in the very near future. I know they will.

It is interesting to look at the attitude of other nations as they observe our increasing dependence on imports. My many friends in Japan cannot understand. They simply say how unfortunate it is that Japan has no natural resources and must import its entire resources, whether energy or mineral. They only have the human work ethic and the efficiencies associated with Japanese industry that have been perfected over an extended period of time, since the Second World War. We helped them basically during the reconstruction period. They simply cannot understand our mentality and lack of our commitment to use our resources wisely, for the benefit of our people and our economy.

In summary, Madam President, I am disappointed. It is ironic that we should be confronted on the same day with a bill to close the most promising area in North America from exploration and put it into an additional permanent wilderness—and I might add, Madam President, we have 56 million acres of wilderness in our State. There are some who would like to put the whole State in a wilderness. There are others who would like to buy the State back from the United States and go it alone. But that is probably another story, for another day as well. To suggest this is the time to put it in wilderness when we get a report that says our national security interest is at stake is, indeed, ironic.

I know Senator STEVENS will be joining me in commenting on the significance of this report and the lack of responsible—and I stress responsible—analysis of the alternatives that we have available to us, alternatives that are practical, and certainly in the national security interest.

I think that is enough for tonight, Madam President. I wish you a good holiday and I yield the floor.

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. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DOLE. Madam President, in a move that defies principle and logic, the Clinton administration has proposed lifting the sanctions on Serbia and Montenegro, while it maintains an illegal and unjust arms embargo on Bosnia and Herzegovina. As the Washington Post editorial page put it today, "the United States and its partners in dealing with the old Yugoslavia have got it upside down."

For 7 months, the Bosnian Serbs have said "no" to the contact group peace plan. Despite their promises last summer of tough measures, the contact group countries have pursued a concessions only approach. And so, instead of putting on more pressure on Serbia and its allies in Bosnia and Croatia, the contact group is now ready to offer an enormous concession to Serbia by agreeing to remove the only real leverage we still have, that is, sanctions. Sanctions provide leverage not only on the situation in Bosnia, and in Croatia, but in Kosova—where Albanians are the latest victims of ethnic cleansing.

Sure, the administration says that Serbian President Milosevic will have to make promises in return. We have seen what his promises are worth. Last August Milosevic promised to cut off the Bosnian Serbs, but what really happened is that support was reduced, not ended. Yes, the administration has managed to see that conditions are attached to this lifting of sanctions, noting that the Europeans and Russians would make such a deal even sweeter for Milosevic. But the bottom line is that this is an ill-conceived policy and any tinkering by the administration on the margins does not change that fact.

The message this action sends is that the contact group countries are incapable of pressuring anyone but the victims of this brutal aggression. That message is a green light to the Bosnian Serbs and to the Krajina Serbs. There are warnings of a wider war, but now we see how the contact group hopes to avoid such a scenario, namely by withholding the Bosnians' right to self-defense. Anyone outside the contact group can see clearly that this is a formula for wider war, not a formula for preventing wider war. As the Washington Post concluded, "seeking a phony peace, the United States and its partners may be stoking a greater war."

Madam President, this is a policy of desperation. This is a policy that highlights the lack of American leadership. This is a policy that puts the United States on the side of rewarding aggression and against the forces of freedom and democracy.

Madam President, I ask unanimous consent that the text of the Washington Post editorial be printed in the RECORD.

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

[From the Washington Post, Feb. 16, 1995]

PHONY PEACE

The United States and its partners in dealing with the old Yugoslavia have got it upside down. What they should be doing is putting more pressure on Serbia and the Serb rebels it supports in Bosnia and Croatia. What they actually are doing is putting on less pressure by prematurely opening up the possibility of ending the already partly suspended, porous sanctions on Serbia that are in place.

This new sweetener concocted by the five-nation Contact Group takes as its stated purpose to draw the Serbian regime of Slobodan Milosevic into formal acceptance of international peace plans for Bosnia and Croatia. But it was always implicit anyway that if Mr. Milosevic decided to rein in his wild ambitions for a Greater Serbia, the sanctions on him would fade away. Now to make it explicit—while he still cheats on his pledges, before he has shown a commitment to restraint—is to invite him to bargain the Contact Group down; to extract a large concession for a minimal policy change.

It is easy enough to grasp why the Contact Group finds itself in the weird position of proposing to suspend not the military embargo on the chief victim, Bosnia, but the economic sanctions on the chief offender, Serbia. It's because none of the group's five members (United States, Russia, France, Britain, Germany) has a taste for employing the force it would take to stiffen their lowest-common-denominator collective diplomacy. To prevent their diplomacy from becoming altogether laughable, they should at the least be stiffening it with tougher sanctions on Serbia. But this they decline to do.

A tragic irony is building. The danger now perceived by the Contact Group is that the war will spread. But the burden of constraining it is being put largely on the Muslims and, to a lesser extent, the Croats. They can fairly wonder whether they are not being asked to swallow huge Serb incursions on their territory, viability and sovereignty for the geopolitical convenience of states far from the battlefield and substantially unaffected by its flows. Feeling abandoned even as their fundamental interests are threatened, Muslims and Croats may yet be confirmed in a judgment that they can satisfy their legitimate political goals only by military means. Seeking a phony peace, the United States and its partners may be stoking a greater war.

(Mr. DEWINE assumed the chair.)

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, it is my hope that we will be able to complete our business in the next few minutes. We are trying to reach some agreement.

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

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

50TH ANNIVERSARY ASSAULT ON RIVA RIDGE

Mr. DOLE. Mr. President, 50 years ago tomorrow, the legendary 10th Mountain Division successfully assaulted Riva Ridge in northern Italy's Appennine Mountains. Tomorrow, 12 of my World War II comrades from the 10th Mountain Division will stage a 50th anniversary climb of Riva Ridge to reenact the division's historic capture of this heavily fortified German stronghold.

Using ropes, pitons, and other mountaineering equipment to scale the cliffs, and wearing replicas of our World War II white camouflage suits, this team of ski troop veterans will follow the same route used by 10th Mountain Division units in seizing the strategic 4,500-foot peak a half century earlier.

This assault group of World War II combat veterans—all of whom are now in their early seventies—will be joined in the commemorative operation by mountain soldier veterans of the German gebirgstruppe and the Italian Alpini. This peaceful ascent of Riva Ridge reflects the founding purposes of the International Federation of Mountain Soldiers, an eight-nation organization which represents more than 500,000 mountain soldier veterans, many of whom fought on opposing sides during World War II. Tomorrow's climb is actually a coming together of wartime foes on a rugged mountain summit in Italy.

In addition, these climbers will be joined by today's soldiers. During recent years, we veterans of the wartime 10th Mountain Division have established close bonds of friendship with our young counterparts of today's 10th Mountain Division—light. Following their recent return from Haiti, 10 young soldiers of the 10th Mountain—light—from Fort Drum, NY, will be participating in the reenactment climb. Joining these active duty soldiers will be two climbing experts from the 172d Mountain Battalion, Vermont National Guard.

The reenactment teams are headquartered in the small mountain village of Lizzano, which was the scene of intense fighting during my division's breakthrough from the Apennines northward into the Po River Valley and the Dolomite Mountains. During the 10th Mountain Division's decisive combat operations in northern Italy, nearly 1,000 of my fellow soldiers lost their lives to enemy action, another 4,000 were wounded.

As our Nation observes the 50th anniversary of the end of World War II during 1995, I am tremendously proud to know that a handful of my fellow 10th Mountain Division veterans have undertaken such a meaningful way of commemorating one of their victories in the final months of the war. I salute them for their endeavor, and I am sure that all other Members of the Congress will do the same.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

TRIBUTE TO DONALD "COOTIE" MASTERS

Mr. PRESSLER. Mr. President, I rise to pay tribute to Donald "Cootie" Masters, the newspaper publisher in my hometown, who recently passed away. D.J. Masters was not only a publisher of a weekly newspaper, he was also a State legislator. He was a fine man, and an inspiration to me.

I think that the role of the weekly editor in America has been overlooked. The importance of the women and men who run our smalltown newspapers is seldom recognized.

Our weekly newspapers have almost been forgotten in this telecommunications age, when we have satellite TV, when we have all the various modern technologies. But our weekly newspapers are still there at the heart of their communities.

I received the Humboldt Journal even when I was in the Army in Vietnam. My mother bought me a subscription and sent it. I received the Humboldt Journal when I was away at the University of South Dakota and later when I was a student at Oxford University in England, and then at Harvard Law School. I still get the Humboldt Journal at home.

You cannot get the weekly hometown paper out of the boy, I suppose you could say.

D.J. Masters was a true South Dakotan. He took great pride in his work, his family, his community, and his faith. He was an example and inspiration to many.

I do not know if many people really understand the positive impact on the lives of South Dakotans that the editors of our weekly papers have.

As the editor of my hometown newspaper, the Humboldt Journal, Cootie Masters was part of the lives of thousands of South Dakotans.

Born on July 7, 1906, Cootie began his rich and fulfilling life in the town of Humboldt, SD. This small town upbringing and his strong family ties instilled in him a deep respect for traditional values. He graduated from Humboldt High School in 1924 and went on to attend the University of South Dakota. I would like to note that in 1924 it was quite an accomplishment for a young student from a small town to attend college. This was only the beginning of Cootie's many achievements.

In addition to his studies at USD, Cootie participated in basketball and was a fraternity brother in Delta Tau Delta. He demonstrated at a young age the importance in life of social involvement and balance between intellectual and physical pursuits.

After Cootie graduated from college, he became involved in his family business. His father owned and operated the Humboldt Journal and passed on his business knowledge to Cootie. Cootie's father died suddenly in 1936, leaving Cootie as the sole owner and editor of the Journal. Anyone you may know in a family business will tell you that successfully passing on a family business to the next generation is much more difficult than most people realize. Cootie not only succeeded in taking over the Journal in 1936, but also was successful in operating it until well after his official retirement. That is no small feat.

Cootie's life involved much more than his newspaper work. He contributed to the whole State of South Dakota by serving in the State house as a representative from Minnehaha County from 1936 to 1941.

Cootie balanced his successful business and political careers with devotion to his family and friends. On June 12, 1933, he began his family by marrying Mildred Newton. Cootie and Mildred had three sons: Neal, Tom, and Bob. Today, the Masters family includes 7 grandchildren and 11 great-grandchildren. I know that Cootie considered his family to be the most precious blessing in his life.

Aside from his children, grandchildren and great-grandchildren, what may have kept Cootie young for so long was his robust enjoyment of life. After college, he continued to participate in baseball and basketball. He also loved the outdoors. An avid sportsman, Cootie enjoyed fishing and hunting. He certainly picked the right State for enjoying the great outdoors.

What is most impressive about Cootie is that with all of his public activities, he is still described as a man with not one enemy.

Cootie was a true friend to me, to our community, and to our State. I will always remember him fondly.

I extend my deepest sympathies to the Masters family on the loss of their beloved Cootie.

Mr. President, I pay tribute not only to him but to the weekly newspapers of South Dakota and to the South Dakota State House of Representatives from which he served during his career.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOLE. Mr. President, I ask unanimous consent that the following be the only amendments or motions in order to House Joint Resolution 1 and that all amendments or motions be subject to relevant first and second degree amendments and all first-degree amendments or motions on the list must be filed at the desk with the bill clerk by 12 noon Wednesday with the exception of first-degree amendments to motions. I will submit the list. I will not read the list. I think both the distinguished Democrat leader and I have the same list. I will submit that list.

I further ask that no further amendments be in order to the joint resolution after 3 p.m. on Friday February 24, and that any amendments, motions, or motions pending at that time be disposed of without debate in a stacked sequence beginning at 2:15 p.m. on Tuesday, February 28.

I further ask that the time on Monday, February 27 and on Tuesday, February 28, prior to 12:30 p.m. be equally divided between the two leaders or their designees, and a vote on final disposition of House Joint Resolution 1 occur following the stacked votes beginning at 2:15 on February 28, 1995.

I further ask that no votes occur during the session of the Senate on Friday, February 24, and on Monday, February 27, 1995.

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

Mr. DOLE. Mr. President, I send the list to the desk, and also ask that it be printed in the RECORD.

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

Bumpers:

1. Motion to commit to budget to amend the Budget Act.

Johnston:

1. Impoundment.

Leahy:

1. GAO study.

Feingold:

1. Budgetary surplus; 2. Budgetary surplus; 3. T.V.A.; 4. T.V.A. like agencies.

Wellstone:

1. Children; 2. Education; 3. Veterans; 4. Relevant; 5. Relevant; 6. Relevant; 7. Motion to refer to Budget Committee.

Rockefeller:

1. Veterans (do today).

Graham:

1. Regarding debt; 2. Regarding debt; 3. Effective date.

Kennedy:

1. Impoundment.

Levin:

1. Implementing language; 2. Relevant; 3. Relevant; 4. Relevant.

Conrad:

1. Exemption for recessionary periods.

Kerry:

1. Motion to commit Budget Committee; 2. Exemption for economic recession.

Hollings:

1. Relevant.

Daschle:

1. Relevant; 2. Relevant.

Feinstein:

1. Substitute amendment.

Byrd:

1. Increase taxes by majority vote; 2. Increase debt by majority vote; 3. President to submit an alternative budget; 4. Waiver for war by majority vote; 5. Effective date of 2000; 6. Strike reliance on estimates; 7. Increase revenues by 3/5's vote of both houses; 8. Increase tax revenues by 3/5's vote of both houses; 9. Relevant.

Nunn:

1. National economic emergencies; 2. Judicial powers.

Dorgan:

1. Motion to refer regarding C.B.O. appointment.

Pryor:

1. Relevant.

Dole:

1. Five motions.

Daschle:

1. Three motions.

CLOTURE MOTION VOTES VITIATED

Mr. DOLE. Mr. President, I ask that the two cloture votes scheduled for Wednesday, February 22, be vitiated.

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

MORNING BUSINESS

INDIAN EDUCATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Indian Affairs Committee be discharged from consideration of S. 377, a bill relating to Indian education and that the Senate 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 bill (S. 377) to amend a provision of part A of title IX of the Elementary and Secondary Education Act of 1965, relating to Indian education, to provide a technical amendment, and for other purposes.

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed and the motion to reconsider be laid upon the table.

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

So the bill (S. 377) was deemed read the third time and passed, as follows:

S. 377

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

SECTION 1. TECHNICAL AMENDMENT.

Section 9112(a)(1)(A) of the Elementary and Secondary Education Act of 1965 (as added by section 101 of the Improving America's Schools Act of 1994 (Public Law 103-382)) is amended by striking "and" and inserting "or".

S. 377

Mr. MCCAIN. Mr. President, S. 377 is a technical corrections bill in its truest form. S. 377 would amend section 9112(a)(1)(A) of the Elementary and Secondary Education Act of 1965. S. 377 would amend section 9112(a)(1)(A), otherwise referred to as the Indian Education Act, by striking the word "and" and inserting the word "or." This technical change would correct an oversight that occurred during the conference of the bill.

Last Congress, the Committee on Indian Affairs received testimony from both Indian educators and tribal organizations on proposals for the reauthorization of the Indian Education Act. These proposals were integrated into the Improving America's School Act of 1994. Among these proposals was a program providing formula grants to schools enrolling Indian children.

During the House and Senate conference regarding this particular section of the act, discussions ensued on whether a minimum of 10 or 20 Indian children would be required in order to be eligible for these programs. The House bill would have required that a school have at least 20 Indian children or that the Indian children make up at least 25 percent of the student body of the school. The Senate bill would have required that a school have a minimum of 10 Indian children or that Indian children make up 25 percent of the student body of the school. The House and Senate Conferees agreed upon the Senate version which required a minimum of 10 Indian students or that Indian students make up 25 percent of the school's enrollment.

The congressional intent behind section 9112 clearly supports the enactment of this technical amendment. The House and Senate debate on this section only contemplated the number of Indian children that would be required for funding pursuant to this section. The conferees did not debate over the conjunction "or." The side-by-side analysis used by both the Senate and House conferees supports this point. However, an apparent error occurred in the redrafting process of the conference approved bill. The drafters inadvertently substituted the word "and" for "or." As a result, the law currently states that "in order for a school to be eligible for an Indian Education Act formula grant, it must have 10 eligible students and have 25 percent of its student population eligible for the program." among these proposals.

This minor oversight will have major ramifications in the education of American Indian and Alaska Native children. The current language unnecessarily restricts a schools eligibility for grant funding by requiring schools to meet both criteria. Consequently, the existing language will result in the disqualification of many schools that serve American Indian and Alaska Native children. The Department of Education is in the process of promulgating regulations which do not accurately reflect the true intent of the Congress. Therefore, it is imperative that this amendment be promptly enacted to clarify and fulfill the true intent of the act, to improve schools for all Americans, including Indians and Alaska Natives.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, 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.)

REPORT RELATIVE TO CHEMICAL AND BIOLOGICAL WEAPONS—MESSAGE FROM THE PRESIDENT—PM 19

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

On November 16, 1990, in light of the dangers of the proliferation of chemical and biological weapons, President Bush issued Executive Order No. 12735, and declared a national emergency under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). Under section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), the national emergency terminates on the anniversary date of its declaration unless the President publishes in the *Federal Register* and transmits to the Congress a notice of its continuation.

On November 14, 1994, I issued Executive Order No. 12938, which revoked and superseded Executive Order No. 12735. As I described in the report transmitting Executive Order No. 12938, the new Executive order consolidates the functions of Executive Order No. 12735, which declared a national emergency with respect to the proliferation of chemical and biological weapons, and Executive Order No. 12930, which declared a national emergency with respect to nuclear, biological, and chemical weapons, and their means of delivery. The new Executive order continued in effect any rules, regulations, orders, licenses, or other forms of administrative action taken under the authority of Executive Order No. 12735. This is the final report with respect to Executive Order No. 12735.

This report is made pursuant to section 204 of the International Emergency Economic Powers Act and section 401(c) of the National Emergencies Act regarding activities taken and money spent pursuant to the emergency declaration. Additional information on chemical and biological weapons proliferation is contained in the annual report to the Congress provided pursuant to the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.

The three export control regulations issued under the Enhanced Proliferation Control Initiative are fully in force and continue to be used to control the export of items with potential use in chemical or biological weapons (CBW) or unmanned delivery systems for weapons of mass destruction.

During the final 6 months of Executive Order No. 12735, the United States continued to address actively in its international diplomatic efforts the problem of the proliferation and use of CBW.

At the termination of Executive Order No. 12735, 158 nations had signed the Chemical Weapons Convention (CWC) and 16 had ratified it. On November 23, 1993, I submitted the CWC to the Senate for its advice and consent to ratification. The United States continues to press for prompt ratification of the Convention to enable its entry into force as soon as possible. We also continue to urge those countries that have not signed the Convention to do so. The United States has remained actively engaged in the work of the CWC Preparatory Commission headquartered in The Hague, to elaborate the technical and administrative procedures for implementing the Convention.

The United States was an active participant in the Special Conference of States Parties, held September 19–30, 1994, to review the consensus final report of the Ad Hoc Group of experts mandated by the Third Biological Weapons Convention (BWC) Review conference. The Special Conference produced a mandate to establish an Ad Hoc Group whose objective is to develop a legally binding instrument to strengthen the effectiveness and improve the implementation of the BWC. The United States strongly supports the development of a legally binding protocol to strengthen the Convention.

The United States maintained its active participation in the Australia Group (AG), which welcomed the Czech Republic, Poland, and Slovakia as the 26th, 27th, and 28th AG members, respectively. The Group reaffirmed members' collective belief that full adherence to the CWC and the BWC provides the only means to achieve a permanent global ban on CBW, and that all states adhering to these conventions have an obligation to ensure that their national activities support these goals.

The AG also reiterated its conviction that harmonized AG export licensing measures are consistent with and indeed actively support, the requirement under Article I of the CWC that States Parties never assist, in any way, the manufacture of chemical weapons. These measures also are consistent with the undertaking in Article XI of the CWC to facilitate the fullest possible exchange of chemical materials and related information for purposes not prohibited by the Convention, as they focus solely on preventing assistance to activities banned under the CWC. Similarly, such efforts also support existing nonproliferation obligations under the BWC.

The United States Government determined that one foreign individual and two foreign commercial entities—respectively, Nahum Manbar, and Mana International Investments and Europol Holding Ltd.—had engaged in chemical weapons proliferation activities that required the imposition of trade sanctions against them, effective on July 16, 1994. A separate determination was made and sanctions imposed against Alberto di Salle, an Italian national, effective on August 19, 1994. Additional information on these determinations will be contained in a classified report to the Congress, provided pursuant to the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.

Pursuant to section 401(c) of the National Emergencies Act, I report that there were no expenses directly attributable to the exercise of authorities conferred by the declaration of the national emergency in Executive Order No. 12735 during the period from November 16, 1990, through November 14, 1994.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 16, 1995.*

REPORT RELATIVE TO NUCLEAR, CHEMICAL AND BIOLOGICAL WEAPONS—MESSAGE FROM THE PRESIDENT—PM 20

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

On September 29, 1994, in Executive Order No. 12930, I declared a national emergency under the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701 et seq.) to deal with the threat to the national security, foreign policy, and economy of the United States posed by the continued proliferation of nuclear, biological, and chemical weapons, and their means of delivery. Specifically, this order provided necessary authority under the Enhanced Proliferation Control Initiative (EPCI), as provided in the Export Administration Regulations, set forth in Title 15, Chapter VII, Subchapter C, of the Code of Federal Regulations, Parts 768 to 799 inclusive, to continue to regulate the activities of United States persons in order to prevent their participation in activities that could contribute to the proliferation of weapons of mass destruction and their delivery means.

I issued Executive Order No. 12930 pursuant to the authority vested in me as President by the Constitution and laws of the United States of America, including the IEEPA, the National Emergencies Act (NEA) (50 U.S.C. 1601 et seq.), and section 301 of title 3 of the United States Code. At that time, I also submitted a report to the Congress pursuant to section 204(b) of the IEEPA (50 U.S.C. 1703(b)).

Executive Order No. 12930 was revoked by Executive Order No. 12938 of November 14, 1994. Executive Order No. 12938 consolidates a number of authorities and eliminated certain redundant authorities. All authorities contained in Executive Order No. 12930 were transferred to Executive Order No. 12938.

Section 204 of the IEEPA requires follow-up reports, with respect to actions or changes, to be submitted every 6 months. Additionally, section 401(c) of the NEA requires that the President: (1) within 90 days the end of each 6-month period following a declaration of a national emergency, report to the Congress on the total expenditures directly attributable to that declaration; or (2) within 90 days after the termination of an emergency, transmit a final report to the Congress on all expenditures. This report, covering the period from September 29, 1994, to November 14, 1994, is submitted in compliance with these requirements.

Since the issuance of Executive Order No. 12930, the Department of Commerce has continued to administer and enforce the provisions contained in the Export Administration Regulations concerning activities by United States persons that may contribute to the proliferation of weapons of mass destruction and missiles. In addition, the Department of Commerce has conducted ongoing outreach to educate concerned communities regarding these restrictions. Regulated activities may include financing, servicing, contracting, or other facilitation of missile or weapons projects, and need not be linked to exports or reexports of U.S.-origin items. No applications for licenses to engage in such activities were received during the period covered by this report.

No expenses directly attributable to the exercise of powers or authorities conferred by the declaration of a national emergency in Executive Order No. 12930 were incurred by the Federal Government in the period from September 29, 1994, to November 14, 1994.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 16, 1995.*

MESSAGES FROM THE HOUSE

At 3:49, p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 30. Concurrent resolution providing for the adjournment of the two Houses.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services.

Mr. THURMOND. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the RECORDS of January 6 and 23, 1995 and to save the expense of printing again.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of January 6 and 23, 1995 at the end of the Senate proceedings.)

(*) Lt. Gen. Dale W. Thompson, Jr., U.S. Air Force to be placed on the retired list in the grade of lieutenant general (reference No. 160).

(*) Lt. Gen. Jerry R. Rutherford, U.S. Army to be placed on the retired list in the grade of lieutenant general (reference No. 161).

(*) Rear Adm. John A. Lockard, U.S. Navy to be vice admiral (reference No. 162).

(**) In the Air Force there are 5 promotions to the grade of colonel and below (list begins with Alan L. Christensen) (reference No. 166).

(**) In the Army Reserve there are 29 promotions to the grade of colonel and below (list begins with Rodger T. Hosig) (reference No. 167).

(**) In the Army Reserve there is 1 appointment to the grade of lieutenant colonel (Frederick B. Brown) (reference No. 168).

(**) In the Navy there are 3 appointments to the grade of ensign (lists begins with the James P. Screen III) (reference No. 169).

(**) In the Air Force there are 662 promotions to the grade of colonel and below (list begins with Barrett W. Bader) (reference No. 170).

(**) In the Air Force Reserve there are 60 promotions to the grade of colonel (list begins with Jonathan E. Adams) (reference No. 171).

(**) In the Air Force Reserve there are 202 promotions to the grade of colonel (list begins with Timothy L. Anderson) (reference No. 172).

(**) In the Army Reserve there are 1,371 promotions to the grade of lieutenant colonel (list begins with Ronnie Abner) (reference No. 173).

Total: 2,336.

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 Ms. SNOWE:

S. 427. A bill to amend various Acts to establish offices of women's health within certain agencies, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROTH (for himself, Mr. BAUCUS, Mr. BIDEN, Mrs. BOXER, Mr. FEINGOLD, Mr. DODD, Mr. HARKIN, Mr. JEFFORDS, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Mrs. MURRAY, Mr. PELL, and Mr. WELLSTONE):

S. 428. A bill to improve the management of land and water for fish and wildlife purposes, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BRYAN (for himself and Mr. REID):

S. 429. A bill to amend the Nuclear Waste Policy Act of 1982 to allow commercial nuclear utilities that have contracts with the Secretary of Energy under section 302 of that Act to receive credits to offset the cost of storing spent fuel that the Secretary is unable to accept for storage on and after January 31, 1998; to the Committee on Energy and Natural Resources.

By Ms. SNOWE:

S. 430. A bill to amend XIX of the Social Security Act to require States to adopt and enforce certain guardianship laws providing protection and rights to wards and individuals subject to guardianship proceedings as a condition of eligibility for receiving funds under the medicaid program, and for other purposes; to the Committee on Finance.

S. 431. A bill to amend the Magnuson Fishery Conservation and Management Act to authorize the Secretary of Commerce to prepare fishery management plans and amendments to fishery management plans under negotiated rulemaking procedures, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 432. A bill to amend the Magnuson Fishery Conservation and Management Act to require the Secretary of Commerce to prepare conservation and management measures for the northeast multispecies (groundfish) fishery under negotiated rulemaking procedures, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KERRY:

S. 433. A bill to regulate handgun ammunition, and for other purposes; to the Committee on the Judiciary.

By Mr. KOHL:

S. 434. A bill to amend the Internal Revenue Code of 1986 to increase the deductibility of business meal expenses for individuals who are subject to Federal limitations on hours of service; to the Committee on Finance.

By Mr. FAIRCLOTH:

S. 435. A bill to provide for the elimination of the Department of Housing and Urban Development, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. MCCAIN, and Mr. DASCHLE):

S. 436. A bill to improve the economic conditions and supply of housing in Native American communities by creating the Native American Financial Services Organization, and for other purposes; to the Committee on Indian Affairs.

By Ms. SNOWE:

S. 437. A bill to establish a Northern Border States-Canada Trade Council, and for other purposes; to the Committee on Finance.

S. 438. A bill to reform criminal laws, and for other purposes; to the Committee on the Judiciary.

By Mr. THOMAS (for himself, Mr. LOTT, Mr. SIMPSON, Mr. INHOFE, Mr. COATS, Mr. MURKOWSKI, and Mr. COCHRAN):

S. 439. A bill to direct the Director of the Office of Management and Budget to establish commissions to review regulations issued by certain Federal departments and agencies, and for other purposes; to the Committee on Governmental Affairs.

By Mr. WARNER (for himself, Mr. CHAFEE, Mr. BAUCUS, Mr. MOYNIHAN, Mr. BOND, Mr. FAIRCLOTH, Mr. KEMPTHORNE, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. INHOFE, Mr. REID, Mr. SMITH, Mr. LUGAR, Mrs. BOXER, Mr. GRAHAM, and Mr. PELL):

S. 440. A bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MCCAIN:

S. 441. A bill to reauthorize appropriations for certain programs under the Indian Child Protection and Family Violence Prevention Act, and for other purposes; to the Committee on Indian Affairs.

By Ms. SNOWE (for herself and Mr. DOLE):

S. 442. A bill to improve and strengthen the child support collection system, and for other purposes; to the Committee on Finance.

By Mr. GRAMS:

S. 443. A bill to reaffirm the Federal Government's commitment to electric consumers and environmental protection by reaffirming the requirement of the Nuclear Waste Policy Act of 1982 that the Secretary of Energy provide for the safe disposal of spent nuclear fuel beginning not later than January 31, 1998, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 444. A bill to amend the Alaska Native Claims Settlement Act to provide for the purchase of common stock of Cook Inlet Region, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. D'AMATO (for himself, Mr. MACK, Mr. BENNETT, Mr. FAIRCLOTH, and Mr. BRYAN):

S. 445. A bill to expand credit availability by lifting the growth cap on limited service financial institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. INOUYE (for himself, Mr. HATFIELD, Mr. LEVIN, Mr. D'AMATO, Mr. AKAKA, Mr. COCHRAN, Mr. DODD, Mr. GRASSLEY, Mr. HATCH, Mr. HEFLIN, Mr. HOLLINGS, Mr. KENNEDY, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. ROBB, and Mr. SIMON):

S. 446. A bill to require the Secretary of the Treasury to mint coins in commemoration of the public opening of the Franklin Delano Roosevelt Memorial in Washington, D.C; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. INHOFE (for himself and Mr. NICKLES):

S. 447. A bill to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. PRYOR, and Mr. REID):

S. 448. A bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction, and for other purposes; to the Committee on Finance.

By Mr. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. 449. A bill to establish the Midewin National Tallgrass Prairie in the State of Illinois, and for other purposes; to the Committee on Armed Services.

By Mr. GRASSLEY:

S. 450. A bill for the relief of Foad Miahi-Neysi and his wife, Haiedeh Miahi-Neysi; to the Committee on the Judiciary.

By Mr. NICKLES (for himself, Mr. INHOFE, and Mr. DOLE):

S. 451. A bill to encourage production of oil and gas within the United States by providing tax incentives and easing regulatory burdens, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. DASCHLE) (by request):

S. 452. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for the middle class; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. DASCHLE) (by request):

S. 453. A bill to amend the Internal Revenue Code of 1986 to modify the eligibility criteria for the earned income tax credit, to improve tax compliance by United States persons establishing or benefiting from foreign trusts, and for other purposes; to the Committee on Finance.

By Mr. MCCONNELL (for himself, Mr. LIEBERMAN, and Mrs. KASSEBAUM):

S. 454. A bill to reform the health care liability system and improve health care quality through the establishment of quality assurance programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KEMPTHORNE (for himself and Mr. CRAIG):

S. 455. A bill to clarify the procedures for consultation under the Endangered Species Act on management plans for, and specific activities on, federal lands, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BRADLEY (for himself, Mr. DODD, Mr. ROCKEFELLER, Mr. CHAFEE, Mrs. FEINSTEIN, Ms. SNOWE, Mr. LIEBERMAN, Mr. DORGAN, and Mr. KENNEDY):

S. 456. A bill to improve and strengthen the child support collection system, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. SNOWE:

S. Con. Res. 8. A concurrent resolution expressing the sense of the Congress on the need for accurate guidelines for breast cancer screening for women ages 40–49, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 427. A bill to amend various acts to establish offices of women's health within certain agencies, and for other purposes; to the Committee on Labor and Human Resources.

THE WOMEN'S HEALTH OFFICES ACT OF 1995

• Ms. SNOWE. Mr. President, today I am introducing legislation to focus attention on the special health needs of women by establishing offices of women's health within the Office of the Assistant Secretary for Health, the Centers for Disease Control, the Agency for Health Care Policy and Research, the Health Resources and Services Administration, and the Food and Drug Administration.

The directors of these offices of women's health will assess the current level of activity regarding women's health within their respective agencies, established short-range and long-range goals and objectives for women's health, identify projects in women's health that should be conducted or supported, consult with health professionals, nongovernmental organizations, consumer organizations, and other appropriate groups on their agency's women's health policies, and coordinate agency activities on women's health.

Congress has already taken a first step in recognizing that women's unique health needs should be addressed separately. In the 103d Congress, the 1993 NIH revitalization bill established an Office of Woman's Health within the National Institutes of Health. We must build upon that progress in the 104th Congress.

For too long, women have been systematically excluded from medical research studies, received less aggressive treatment for heart disease and other serious ailments, and lacked access to important preventive services. By statutorily establishing offices of women's health in Federal agencies which research and disseminate information about health, we ensure that women's needs and concerns will be given the consideration they deserve.•

By Mr. ROTH (for himself, Mr. BAUCUS, Mr. BIDEN, Mrs. BOXER, Mr. FEINGOLD, Mr. DODD, Mr. HARKIN, Mr. JEFFORDS, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Mrs. MURRAY, Mr. PELL, and Mr. WELLSTONE):

S. 428. A bill to improve the management of land and water for fish and wildlife purposes, and for other purposes; to the Committee on Environment and Public Works.

THE FISH AND WILDLIFE MANAGEMENT ACT OF 1995

• Mr. ROTH. Mr. President, I read recently that "the best thing we have learned from nearly 500 years of contact with the American wilderness is restraint," the need to stay our hand and preserve our precious environment and future resources rather than destroy them for momentary gain.

With this in mind, I offer legislation today that designates the coastal plain of Alaska as wilderness area. At the moment this area is a national wildlife refuge, one of our beautiful and last frontiers. By changing its designation, Mr. President, we can protect it forever.

And I can't stress how important this is.

The Alaskan wilderness area is not only a critical part of our earth's ecosystem—the last remaining region where the complete spectrum of arctic and subarctic ecosystems comes together—but it is a vital part of our national consciousness. It is a place we can cherish and visit for our soul's good. It offers us a sense of well-being and promises that not all dreams have been dreamt.

The Alaskan wilderness is a place of outstanding wildlife, wilderness and recreation, a land dotted by beautiful forests, dramatic peaks and glaciers, gentle foothills, and undulating tundra. It is untamed—rich with caribou, polar bear, grizzly, wolves, musk oxen, Dall sheep, moose, and hundreds of thousands of birds—snow geese, tundra swans, black brant, and more. In all, about 165 species use the coastal plain. It is an area of intense wildlife activity. Animals give birth, nurse and feed their young, and set about the critical business of fueling up for winters of unspeakable severity.

The fact is, Mr. President, there are parts of this Earth where it is good that man can come only as a visitor. These are the pristine lands that belong to all of us. And perhaps most importantly, these are the lands that belong to our future.

Considering the many reasons why this bill is so important, I came across the words of the great western writer, Wallace Stegner. Referring to the land we are trying to protect with this legislation, he wrote that it is "the most splendid part of the American habitat; it is also the most fragile." And we cannot enter "it carrying habits that [are] inappropriate and expectations that [are] surely excessive."

The expectations for oil exploration in this pristine region are excessive. There is only a one-in-five chance of finding any economically recoverable oil in the refuge. And if oil is found, the daily production of 400,000 barrels per day is less than .7 percent of world production—far too small to meet American's energy needs for more than a few months.

In other words, Mr. President, there is much more to lose than might ever be gained by tearing this frontier apart. Already, some 90 percent of Alaska's entire North Slope is open to oil and gas leasing and development. Let's keep this area as the jewel amid the stones.

What this bill offers—and what we need—is a brand of pragmatic environmentalism, an environmental stewardship that protects our important wilderness areas and precious resources, while carefully and judiciously weighing the short-term desires or our country against its long-term needs.

Together, we need to embrace environmental policies that are workable and pragmatic, policies based on the desire to make the world a better place for us and for future generations. I believe a strong economy, liberty, and progress are possible only when we have a healthy planet—only when resources are managed through wise stewardship—only when an environmental ethic thrives among nations and only when people have frontiers that are untrammeled and able to host their fondest dreams.•

By Mr. BRYAN (for himself and Mr. REID):

S. 429. A bill to amend the Nuclear Waste Policy Act of 1982 to allow commercial nuclear utilities that have contracts with the Secretary of Energy under section 302 of that act to receive credits to offset the cost of storing spent fuel that the Secretary is unable to accept for storage on and after January 31, 1998; to the Committee on Energy and Natural Resources.

THE INDEPENDENT SPENT NUCLEAR FUEL STORAGE ACT OF 1995

Mr. BRYAN. Mr. President, I rise today to introduce again legislation I have introduced in each of the past two Congresses, the Independent Spent Nuclear Fuel Storage Act.

As many of my colleagues are aware, since 1987, contrary to Nevada State law, and against the wishes of the vast majority of Nevadans, Nevada has been the sole site considered for the ultimate disposal of the United States' high-level nuclear waste.

Today, in spite of the expenditure of billions of dollars, the Yucca Mountain site is no closer to accepting waste from our Nation's nuclear reactors than it was 13 years ago, when the Nuclear Waste Policy Act of 1982 was enacted.

I strongly oppose the purely political decision made by Congress in 1987 to identify Yucca Mountain as the sole site to be characterized for a permanent repository. Now that the permanent repository program is an obvious failure, with the Department of Energy saying there is no hope of opening any type of storage facility before 2010, the nuclear power industry and its allies have conceived a new strategy.

Contrary to all objective scientific judgment, and general common sense, the nuclear industry's new effort is to instruct the DOE to build an interim storage facility at the Yucca Mountain site. As offensive as the 1987 act, commonly referred to in Nevada as the "screw Nevada bill," was, the new effort of the nuclear power industry is even more of an outrage to Nevadans.

The nuclear power industry's newest proposal is nothing less than a direct assault on the health and safety of Nevadans. Frustrated by its inability to overcome the insurmountable safety concerns raised in relation to a permanent repository, the industry is now seeking to circumvent the objections of credible, objective scientists to a permanent repository at Yucca Mountain.

I am convinced, like many others, that any centralized interim storage facility will become the de facto permanent repository.

Funding for an interim storage program will necessarily come at the expense of the permanent repository program. The expression "out of sight, out of mind" could not be truer. Once the waste is removed from the reactor sites, the nuclear industry's commitment to finding a permanent solution to the waste problem will vanish. And since it is the nuclear power industry's obsession with moving this waste off the reactor sites that drives the Federal Civilian Nuclear Waste Program, the Federal commitment to permanent storage will vanish as well.

The nuclear power industry as much as concedes this—every version of their interim storage legislation I am aware of provides for licensing the interim site for 100 years, subject to renewal.

The permanent repository program is a failure. The nuclear power industry and its advocates, including the Department of Energy, have created a program which was bound to fail. Careless science, poor management, unreasonable deadlines and timetables, and the ill-fated decision to pursue only one site for characterization, thus leaving the program with no options or alternatives, have all contributed to the failure of the program.

The industry's suggestion to build an interim storage facility in Nevada is simply one more in a long series of irresponsible and ill-founded proposals by the nuclear power industry to solve their high level waste problem at the expense of the health and safety of all Nevadans.

I will concede that the nuclear power industry has a waste problem. I strongly object, however, to the industry's solution, which is simply to send their problem, their waste to Nevada.

The question arises, do we need a centralized interim storage site? If we are truly talking about interim storage, the answer is obviously no.

A few nuclear utilities, looking at the future uncertainty of the Federal nuclear waste program, have done the responsible thing and built interim dry cask storage at the reactor site. In dry cask storage, spent fuel assemblies are removed from the reactor pools and stored in various systems of canisters, casks, and concrete shells.

I recently visited one of these dry cask storage facilities, at Calvert Cliffs in Maryland, and, I must say, I was impressed by the simplicity and efficiency of the spent fuel management operation. It is a responsible action taken by the industry, and I commend their example to others. The Calvert Cliffs dry cask storage program provides a reasonable solution to the interim storage problem, the spent fuel is stored on site, where security and safety precautions already exist, until a safe plan for the long-term disposition of the waste can be finalized.

A centralized interim storage facility is simply not needed, or desirable. The original Nuclear Waste Policy Act recognized this fact, and placed restrictions on the DOE's authority to accept responsibility for interim storage. The nuclear power industry, faced with the reality of the failure to build a permanent repository at Yucca Mountain, is now engaged in yet another exercise of political muscle with one purpose: To make Nevada the final destination for their toxic and highly dangerous waste.

Even if we concede, which we do not, that there is a need for a centralized interim storage facility, there is no defensible reason to site the facility in Nevada. A simple look at a map easily shows that Nevada is one of the least central sites to store nuclear waste. The great majority of the reactor sites producing high-level waste are east of the Mississippi—93 reactors out of the U.S. total of 118.

Shipping thousands of tons of high level waste to Nevada will create dramatic threats to the safety of communities throughout the United States. An analysis of one proposal supported by the nuclear power industry reveals that interim storage in Nevada will require 15,000 shipments by rail and truck through 43 States to begin as early as 1998 and continue for 30 years.

Interim storage in Nevada is not the answer to the nuclear power industry's waste problem. The responsible answer to the waste problem, if the nuclear utilities choose to continue to run their reactors, is on-site, dry cask storage.

Unfortunately, most nuclear utilities appear to be unwilling to develop dry cask storage facilities for a variety of reasons, both political and financial.

There is not much we can do about the local political opposition faced by utilities. The utilities, and communities, that benefited from the operation of the powerplant should bear responsibility for their own waste. High-level waste storage is not popular, and there are political costs to the utilities for living up to their responsibilities.

Asking Nevada to solve the political problems in the communities they serve places the nuclear utilities on completely indefensible ground. The outright hypocrisy of the nuclear power industry's advocates, and their shameless attempts to exert political influence to solve complex scientific and environmental problems, has created an atmosphere of complete distrust and antagonism for the industry in Nevada.

There are also financial barriers to on-site, dry cask storage. Ratepayers have been making contributions to the nuclear waste trust fund with the exception that the Federal Government will dispose of their nuclear waste. I am somewhat sympathetic to the ratepayers' concerns. The Federal disposal program is a failure.

The civilian nuclear waste program has been so poorly managed, and so misguided, that Congress has had good reason not to release the full balance of the trust fund to the program. The ratepayers deserve some financial relief while the Federal Government attempts to meet its obligations, and while the utilities invest the needed capital to store their own waste.

The legislation I am introducing today recognizes the nuclear power industry's need for interim storage, as well as the financial impact on ratepayers caused by delays in the repository program. The legislation provides credits against utilities' payments to the nuclear waste trust fund for costs incurred for on-site, dry cask storage.

The legislation provides an equitable solution to a difficult problem. It recognizes the financial contributions of the utilities' ratepayers to the trust fund, and recognizes the reality that a permanent repository will not be available to meet the needs of the nuclear power industry.

Mr. President, together with their advocates in Congress and the Department of Energy, the nuclear power industry has spared no expense or effort in moving its waste to Nevada. I have attempted to fight the industry at every turn.

I hope that Congress will not take the failure of the permanent repository program as a signal to bow to the nuclear power industry once again, and accelerate plans to store nuclear waste in Nevada, but instead to take this opportunity to find an equitable solution to a difficult problem which does not threaten the health and safety of future generations of Nevadans.

I urge my colleagues to support the legislation I am introducing today.

By Ms. SNOWE:

S. 430. A bill to amend title XIX of the Social Security Act to require States to adopt and enforce certain guardianship laws providing protection and rights to wards and individuals subject to guardianship proceedings as a condition of eligibility for receiving funds under the Medicaid Program, and for other purposes; to the Committee on Finance.

THE GUARDIANSHIP RIGHTS AND RESPONSIBILITIES ACT

• Ms. SNOWE. Mr. President, today I am introducing the Guardianship Rights and Responsibilities Act of 1995, which establishes a bill of rights for adults who, because of physical or mental incapacity, become wards of the courts.

Wards are individuals whose legal rights, decisionmaking authority and possessions have been transferred to the control of a guardian or conservator based on a judgment that the person is no longer capable of handling these affairs. This legal system severely limits an individual's personal autonomy and has considered problems and widespread abuses. Horror stories abound about guardians who force unnecessary nursing home care, embezzle assets, or otherwise abuse their wards.

The Guardianship Rights and Responsibilities Act of 1995 would require States to adopt and enforce laws to provide basic protection and rights to wards as a condition of receiving Federal Medicaid funds. It would assure due process protections such as counsel, the right to be present at their proceedings and to appeal decisions. Also required would be: Clear and convincing evidence to determine the need for a guardianship; adequate court monitoring; and standards, training and oversight for guardians.

This legislation will help to protect the most vulnerable elderly and disabled from exploitation, and will help to assure them the highest possible autonomy. I hope my colleagues will join me in supporting this bill.•

By Ms. SNOWE:

S. 431. A bill to amend the Magnuson Fishery Conservation and Management Act to authorize the Secretary of Commerce to prepare fishery management plans and amendments to fishery management plans under negotiated rulemaking procedures, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 432. A bill to amend the Magnuson Fishery Conservation and Management Act to require the Secretary of Commerce to prepare conservation and management measures for the northeast multispecies—groundfish—fishery under negotiated rulemaking procedures, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NEGOTIATED RULEMAKING FOR FISHERIES LEGISLATION

• Ms. SNOWE. Mr. President, as many stories in the national media have reported, the New England groundfish industry is now facing the most difficult challenges in its long history. Scientists report that once plentiful stocks of cod, haddock, flounder, and other fish species have reached historic lows. In response to these stock assessments, the New England Fishery Management Council has approved severe restrictions on fishing that will probably force many fishermen out of business. These restrictions include a 5-year program to cut fishing efforts in half, mandatory use of large-mesh nets, a moratorium on new entrants into the fishery, and the emergency closure of large areas on the George's Bank fishing grounds off Massachusetts.

Most fishermen in Maine recognize that the groundfish stocks are low and that effective conservation measures are needed to help rebuild the fishery. But too many fishermen also believe that the specific program approved by the council will not succeed at restoring groundfish populations, and will place unnecessary economic burdens on working fishermen. In their view, the council, despite public hearings, dismissed too many of their recommendations despite the fact that they and others before them have been fishing the waters off New England for three centuries. In short, they have no support for or confidence in the council-developed management program under which they must operate.

The success of any regulatory program depends in large part on the confidence of the regulated community that the action takes their views into account, will achieve its ends, and is sensible and necessary. I am introducing legislation today that aims to restore the confidence of New England fishermen in the credibility of the Federal fisheries management process by giving them and other citizens with an interest in fisheries the ability to participate directly in that process.

My bills bring the concept of negotiated rulemaking or regulatory negotiation to fisheries management. The concept was established in Federal law by the negotiated Rulemaking Act of 1990. Under negotiated rulemaking, representatives of all stakeholder groups involved in a dispute negotiate directly on the regulatory solution with the aid of a professional facilitator. It provides a collaborative, consensus-based dispute resolution tool that agencies can use to develop potentially controversial regulations. If the negotiating group can reach consensus, then the agency can propose the agreement as a new regulation or rule. Negotiated rulemaking has been used—sometimes successfully, sometimes unsuccessful—by other Federal agencies, and it is time that this tool be made available in the fisheries management process.

The first bill that I have introduced today gives the Secretary of Commerce explicit authority to use negotiated rulemaking to develop fishery management plans or plan amendments. Under the Magnuson Act, the Secretary can only submit management plans or plan amendments under limited circumstances which preclude his flexibility in using this important tool effectively. Also, negotiated rulemaking is specifically used to develop rules, but fishery management plans are not technically rules. My bill removes these potential obstacles and clears the way for the Secretary to use this dispute resolution tool on controversial issues.

The second bill directs the Secretary to use negotiated rulemaking in the specific case of the New England groundfish fishery. Alternative dispute resolution is used more and more commonly in lieu of the traditional adversarial regulatory process, and I believe that it should be tried in the case of the New England groundfish issue.

These bills do not directly affect any existing fisheries management programs, or impose new management measures. They only offer an alternative route for devising plans that will restore fish stocks off the coast of New England and other parts of the country. They could lead to new management measures that not only do a better job of rebuilding fish stocks, but do so in a manner that minimizes the economic impact on fishermen and coastal communities, and in a manner that gains the confidence and support of most fishermen. Surely, given the extremely high stakes in an area like New England these days, we must explore every opportunity, every possibility, for achieving such critically important results.•

By Mr. KERRY:

S. 433. A bill to regulate handgun ammunition, and for other purposes; to the Committee on the Judiciary.

THE AMMUNITION SAFETY ACT OF 1995

• Mr. KERRY. Mr. President, no gun works without a bullet. Yet for no good reason, Congress in the early 1980's repealed laws that regulate ammunition. And while a background check is required to stop felons from purchasing guns, no such background check is required to stop them from buying ammunition for the guns they may already have.

In the meantime, bullets are getting meaner and more deadly. Law enforcement officers know all too well of the danger they face each and every time a gun is pointed at them.

Advances in technology only promise to make matters worse. When a large percentage of gun-related deaths involve handguns, and a large percentage of gun related deaths is accidental, it is insane for the public to fear the creation of new, more destructive bullets.

The fact is 157 police officers and State troopers were killed in this country last year. Five lost their lives in my home State of Massachusetts.

And more than 200 people die from the accidental use of handguns every year. In 1992 alone, 233 accidental deaths occurred because of handguns. This included 6 babies, 36 kids under the age of 14, and 8 senior citizens, 2 of whom were over the age of 80.

In light of these sad and disturbing facts, there is no good reason to have ever more dangerous bullets on the market. And there is every good reason to keep off our streets and out of our homes bullets that supply handguns with the destructive power of assault weapons.

That is why the Ammunition Safety Act of 1995 does two things: it reestablishes reasonable regulations for the sale of handgun ammunition, and it outlaws all exceedingly destructive handgun ammunition—whether or not such ammo has been invented yet—by expanding and updating the ban on armor-piercing handgun ammunition.

This bill would provide a weapon for law enforcement to crack down on crime and would make ordinary people safer from handgun violence and accidental shootings. The bill accomplishes these goals in three steps.

First, the bill reinstates and strengthens ammunition control language that Congress repealed during the Reagan era. It would require dealers of handgun ammunition to be licensed by the Federal Government. It would restrict interstate sale and transportation of handgun ammunition to licensed dealers. And it would double the maximum penalties for sale to and for possession of handgun ammunition by felons and persons under age 21.

Second, the bill would apply Brady bill provisions to handgun ammunition. To prevent the sale of handgun ammunition to felons, once the nationwide, instantaneous background check the Brady bill created is in place, every purchaser of ammunition will have to pass a background check before ammunition could be sold to him or her. These regulations would be a vital tool to law enforcement in investigating crime, and would provide equity to a system that currently monitors and restricts the flow of guns, but—inexplicably—not of ammunition.

Third, the bill expands the definition of illegal armor-piercing handgun ammunition to include any new conceivable kind of armor-piercing bullet. The bill establishes a new method to accomplish this goal.

To date, no law has been able to effectively ban all armor-piercing bullets. You can't ban what you can't define because vague laws are constitutionally void—and definitions to date have failed to cover all armor-piercing bullets. All that existing law does is ban bullets based on the materials of which they are made—consequently, bullets made of hard metals are illegal—in the hope that this definition will blanket most armor-piercing bullets. But the existing composition-based definition fails to prevent the sale of certain bullets that pierce armor—like large lead bullets that aren't intended for handguns but can be used in them—or the invention of new armor-piercing bullets—for example, a plastic bullet hard enough to pierce armor.

This bill calls on the Treasury Department to define armor-piercing bullets not by what they are but by what they are not. Fulfilling this new responsibility would entail four steps.

First, within 1 year, the Treasury Department is charged with determining a standard test to ascertain the destructive capacity of any and all bullets. This will probably result in something along the lines of a rating system equal to the width times the depth of the hole a projectile bores in a block of gelatin when it is shot with no extra powder from a standard Colt .45 at a distance of 10 feet.

Second, utilizing this destructive rating test, the Treasury Department would then determine a rating threshold which would be the rating of the least destructive bullet to pierce today's standard body armor.

Third, all manufacturers of bullets for sale in the United States would be required to cover the costs incurred by the Treasury Department in testing and determining the destructive rating of every existing bullet available on the market.

Fourth, this bill would make it illegal to manufacture, sell, import, use, or possess any bullet—existing or newly invented—that has a destructive rating equal to or higher than the armor-piercing threshold. This would be in addition to the existing composition-based definition.

This bill contains reasonable exemptions. Those bullets exclusively manufactured for law enforcement would be exempt; so would be those bullets designed for sporting purposes that Congress specifically exempts by law; and those bullets that are proven by their manufacturer at its expense to have a destructive rating below the armor-piercing threshold.

By setting the legal standard at the armor-piercing threshold, all armor-piercing bullets would be illegal. And there is an additional advantage to setting a legal threshold in this fashion: The threshold would ban more than armor-piercing bullets. It would ban any new, sick, perverse bullet that has yet to be invented that explodes on impact, that turns to shrapnel, that does things today's technology cannot yet fathom, or that by any other means is exceptionally destructive.

Setting a legal standard this way draws a hard and fast line between those bullets currently on the market and future bullets that do more damage than we can imagine today. This bills says that America is satisfied that the bullets of today are dangerous enough, and America will tolerate no greater likelihood of accidental death as a result of new bullets.

This bill recognizes the fact that regulating only weapons is naive. Among other reasons, guns last centuries, but ammunition has a shelf-life of not much more than 20 years. Felons who want to kill will always be able to find guns, but have to come out of the woodwork to purchase ammunition. When they do, this bill will be there to stop them.

Of course, felons can make bullets at home, but it isn't easy, it isn't cheap, and it isn't safe. Mr. President, I recognize that there is a limit to what the Government can do to stop gun violence and accidental death. But today, the Government is shirking its responsibility. This bill is a vital first step toward ensuring that the Government does what is necessary to save lives.

The law enforcement community and the public will never again have to react to advertisements like the one for the infamous Rhino bullet. This add states:

> The Rhino inflicts a wound of 8 inches in diameter. Each of these fragments becomes lethal shrapnel and is hurled into vital organs, lungs, circulatory system components, the heart and other tissues. The wound channel is catastrophic. * * * Death is nearly instantaneous.

If this bill is enacted, opportunistic manufacturers like the man who created the Rhino will have nothing to gain from advertising the dramatic innovations of their bullets. If an advertisement claims that a new bullet is unusually destructive, the public will know that the advertisement is either an outright lie or that the product is illegal. Either way, the public will know in advance that no such bullet will ever hit the street, and the public will have no cause for hysteria.

When this bill becomes law, no new bullets that are more dangerous than those of today will make it to market. When this bill becomes law, those bullets that are on the market won't end up in the wrong hands.

This bill is a solid step toward returning sanity and safety to our Nation's streets and household. The Government has no greater responsibility than to work toward this goal.

I welcome the support of colleagues who share my concerns, as many do. I urge them to join me in sponsoring this legislation.

Mr. President, I ask unanimous consent that the full text of the legislation appear in the RECORD.

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

S. 433

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 "Ammunition Safety Act of 1995".

SEC. 2. DEALERS OF AMMUNITION.

(a) DEFINITION.—Section 921(a)(11)(A) of title 18, United States Code, is amended by inserting "or ammunition" after "firearms".

(b) LICENSING.—Section 923(a) of title 18, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking "or importing or manufacturing ammunition" and inserting "or importing, manufacturing, or dealing in ammunition"; and

(2) in paragraph (3)—

(A) in subparagraph (A), by striking "or" the last place it appears;

(B) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(C) by inserting the following new subparagraph:

"(C) in ammunition other than ammunition for destructive devices, $10 per year.".

(c) UNLAWFUL ACTS.—Section 922(a)(1)(A) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by inserting "or ammunition" after "firearms"; and

(ii) by inserting "or ammunition" after "firearm"; and

(B) in subparagraph (B), by striking "or licensed manufacturer" and inserting "licensed manufacturer, or licensed dealer";

(2) in paragraph (2), in the matter preceding subparagraph (A), by inserting "or ammunition" after "firearm";

(3) in paragraph (3), by inserting "or ammunition" after "firearm" the first place it appears;

(4) in paragraph (5), by inserting "or ammunition" after "firearm" the first place it appears; and

(5) in paragraph (9), by inserting "or ammunition" after "firearms".

(d) PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in paragraph (5)—

(A) in subparagraph (A)(i), by striking "1 year" and inserting "2 years"; and

(B) in subparagraph (B)—

(i) in clause (i), by striking "1 year" and inserting "2 years"; and

(ii) in clause (ii), by striking "10 years" and inserting "20 years"; and

(2) by adding at the end the following new subsection:

"(o) Except to the extent a greater minimum sentence is otherwise provided, any person at least 18 years of age who violates section 922(g) shall be subject to—

"(1) twice the maximum punishment authorized by this subsection; and

"(2) at least twice any term of supervised release.".

(e) APPLICATION OF BRADY HANDGUN VIOLENCE PREVENTION ACT TO TRANSFER OF AMMUNITION.—Section 922(t) of title 18, United States Code, is amended by inserting "or ammunition" after "firearm" each place it appears.

SEC. 3. REGULATION OF ARMOR PIERCING AND NEW TYPES OF DESTRUCTIVE AMMUNITION.

(a) TESTING OF AMMUNITION.—Section 921(a)(17) of title 18, United States Code, is amended—

(1) by redesignating subparagraph (D), as added by section 2(e)(2), as subparagraph (E); and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D)(i) Notwithstanding subchapter II of chapter 5 of title 5, United States Code, not later than 1 year after the date of enactment of this subparagraph, the Secretary shall—

"(I) establish uniform standards for testing and rating the destructive capacity of projectiles capable of being used in handguns;

"(II) utilizing the standards established pursuant to subclause (I), establish performance-based standards to define the rating of 'armor piercing ammunition' based on the rating at which the projectiles pierce armor; and

"(III) at the expense of the ammunition manufacturer seeking to sell a particular type of ammunition, test and rate the destructive capacity of the ammunition utilizing the testing, rating, and performance-based standards established under subclauses (I) and (II).

"(ii) The term 'armor piercing ammunition' shall include any projectile determined to have a destructive capacity rating higher than the rating threshold established under subclause (II), in addition to the composition-based determination of subparagraph (B).

"(iii) The Congress may exempt specific ammunition designed for sporting purposes from the definition of 'armor piercing ammunition'.".

(b) PROHIBITION.—Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7)—

(A) by striking "or import" and inserting ", import, possess, or use";

(B) in subparagraph (B), by striking "and";

(C) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(D) the manufacture, importation, or use of any projectile that has been proven, by testing performed at the expense of the manufacturer of the projectile, to have a lower rating threshold than armor piercing ammunition."; and

(2) in paragraph (8)—

(A) in subparagraph (B), by striking "and";

(B) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) the manufacture, importation, or use of any projectile that has been proven, by testing performed at the expense of the manufacturer of the projectile, to have a lower rating threshold than armor piercing ammunition.".●

By Mr. KOHL:

S. 434. A bill to amend the Internal Revenue Code of 1986 to increase the deductibility of business meal expenses for individuals who are subject to Federal limitation on hours of service; to the Committee on Finance.

THE BUSINESS MEAL DEDUCTION FAIRNESS ACT OF 1995

● Mr. KOHL. Mr. President, in 1993, the 103d Congress took a crucial and difficult stand on the deficit. In August of that year we passed the omnibus budget reconciliation bill. I am proud to stand here today and say that that legislation has helped to produce falling deficits and sustained economic growth.

As my colleagues know, I am one of this body's strongest advocates for deficit reduction. I attribute much of my deep commitment to this goal to my days in business. As a businessman, I learned that you must balance your books and live within your means. I also learned that you must treat people fairly, and admit when you make a mistake. I have come to the floor today to once again acknowledge that a mistake was made in the 1993 reconciliation bill; a mistake which must be corrected.

During consideration of the reconciliation bill, I opposed tax increases on working middle- and lower-income Americans. However, in fighting to eliminate increases in broad taxes on middle- and lower-income Americans, Congress overlooked a provision which places a hidden tax on those hardworking Americans who work in the transportation sector. It is for this reason that I rise today to reintroduce the business meal deduction fairness bill.

Included in the 1993 reconciliation bill was a provision which lowered the deductible portion of business meals and entertainment expenses from 80 to 50 percent. On the surface, this seems only a tax on those rich enough to spend their lunchtimes in luxury restaurants and their nighttimes on luxury yachts. But contrary to popular belief, the business meal deduction is not only used by lobbyists and fat cats for three-martini lunches. Due to regulations limiting travel hours, many transportation workers must eat out. That means the reduced business meal deduction is a tax on workers who have no control over the length of their trips, the amount of time they must rest during a delivery, or, in many cases, the places they can stop to eat.

Let me provide you with a brief example to illustrate my point. The average truck driver earns approximately $30,000 a year. The reduced deduction will cost that driver between $750 and $1,000 per year. This is just one of many examples I could give to demonstrate the burden this change has placed on hard-working, middle-income Americans. The legislation I am introducing today, will lift this burden and restore some common sense to the tax code.

Mr. President, the business meal deduction fairness bill repeals the hidden tax created last year by restoring the business meal deduction to 80 percent for those individuals covered by the Department of Transportation hours-of-service limit. This legislation is simple, straightforward, and most importantly, fair.

Mr. President, I would like to remind my colleagues of a similar bill we worked on to correct another mistake which hurt tens of thousands of hard-working, middle-income Americans. As my colleagues remember, the 1990 deficit reduction bill imposed a surtax on specific luxury items. At the time, it was argued that the surtax would only affect the wealthiest segment of society. However, after it went into effect, it became clear that, instead of paying the tax, the wealthy decided not to buy the new boat or the diamond ring. As a result, the middle- and lower-income Americans producing and selling those luxury items ended up bearing the burden of the tax through lost wages and jobs.

Once it was apparent that the luxury tax was not achieving its intended goal, I began working with a number of my colleagues to repeal it. Fortunately, we were successful in getting a repeal in the 1993 reconciliation bill. Unfortunately, far too many people were hurt by this mistake because we did not correct it quickly enough. We cannot let that happen again. Therefore I am requesting the support and assistance of my colleagues to ensure that the business meal deduction fairness bill becomes law. Mr. President, I ask unanimous consent that a copy of my legislation be printed in the RECORD.

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

S. 434

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

SECTION 1. INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.

(a) IN GENERAL.—Section 274(n) of the Internal Revenue Code of 1986 (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.—In the case of any expenses for food or beverages consumed by an individual during, or incident to, any period of duty which is subject to the hours of service limitations of the Department of Transportation, paragraph (1) shall be applied by substituting '80 percent' for '50 percent'."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.●

By Mr. FAIRCLOTH:

S. 435. A bill to provide for the elimination of the Department of Housing and Urban Development, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

LEGISLATION TO ABOLISH HUD

Mr. FAIRCLOTH. Mr. President, today I am pleased to introduce legislation that will abolish the Department of Housing and Urban Development.

Mr. President, HUD was created in 1965. When it was created, the purpose of this Department was to revitalize our urban areas and provide more housing for America.

Mr. President, in short, HUD has been a collosal failure. Since 1965, HUD has spent hundreds of billions of dollars—that adjusted to inflation—probably exceeds a trillion dollars. Yet today, despite this massive spending, our Nation's urban areas are more decayed and more dangerous today than ever. Homelessness, hardly a problem 30 years ago, is now a major concern.

Public housing has been a disaster and home ownership is down.

Solving these problems was supposed to be HUD's mission. In each, it has failed miserably.

Imagine if we applied a performance standard like this to other Federal agencies. Suppose that when we created NASA with the purpose of putting a man on the Moon, that 30 years later, they still had not done it. We might consider abolishing them. That is exactly what we should do with HUD because they failed to accomplish their mission.

Suppose that instead of creating HUD, we had given a trillion dollars to an entrepreneur like Bill Gates. Do you think our inner cities would be any worse off, or do you think that they would be more livable places today? I think the answer is clear.

Take Fannie Mae for example. Fannie Mae plans to spend $1 trillion on affordable housing before the end of the decade. The plan will finance homes for 10 million people. This would provide a home to one in three renters in America. This plan, however, unlike HUD, won't cost American taxpayers one cent, and yet it will provide homes for millions of Americans.

Mr. President, I have no faith that HUD can be reinvented. Thirty years of failure is too much. Since the November 8 election, HUD Secretary Henry Cisneros has put on a masterful public relations plan to save his Department. I for one am not fooled. If he really believed in what he was doing, he would have done it 2 years ago.

Most importantly, what are the savings from the Cisneros plan? There are none. The only clearly identified savings will amount to one-half of 1 percent over 5 years. Mr. President, let me repeat that, the total savings in the Cisneros plan amount to only one-half of 1 percent over 5 years.

Of course, there are promises of more savings, but they are just that—promises.

Actually, if you look at the projected outlays by HUD in the fiscal year 1996 budget for the years 1995–99, spending is $3 billion more than was projected in last year's budget. Yes, that's right, spending will actually increase despite the reorganization.

Furthermore, my favorite line from the President's budget is on page 190. It is a chart about HUD's program consolidation. It says:

"Net impact, HUD consolidations"—spending of $29.4 billion in 1995 to $30.3 billion in 1996.

Yes, that's right. Spending will actually go up by $1 billion because of HUD's consolidations—not down.

The Wall Street Journal reported on February 15, 1995, that HUD's projected savings may have been oversold, and that down at HUD they knew this before they submitted their plan to Congress.

For these reasons, I am introducing a bill to abolish HUD. The bill will abolish HUD, effective January 1, 1998. The bill will direct the Secretary to make one housing block grant available to States and localities; transform all rental assistance into vouchers; and make FHA a Government-controlled corporation with income targeting and risk sharing.

By Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. MCCAIN, and Mr. DASCHLE):

S. 436. A bill to improve the economic conditions and supply of housing in native American communities by creating the Native American Financial Services Organization, and for other purposes; to the Committee on Indian Affairs.

NATIVE AMERICAN FINANCIAL SERVICES ORGANIZATION ACT

Mr. CAMPBELL. Mr. President, today I am introducing legislation entitled the Native American Financial Services Organization Act. I am pleased to add my distinguished colleagues, the chairman and vice-chairman of the Indian Affairs Committee, Senators MCCAIN and INOUYE, and Senator DASCHLE, as cosponsors of this important legislation.

Mr. President, there is a continued need for assistance to improve the housing conditions that exist in many Indian reservation communities, Alaska Native villages, and native Hawaiian communities. Statistics from the Bureau of Indian Affairs estimated in 1993 that as many as 90,000 native American families were in need of improved housing and nearly 50,000 families need new homes.

Further, a study completed by the Commission on American Indian, Alaska Native, and Native Hawaiian Housing, found that housing shortages and deplorable living conditions are at crisis proportions in many native American communities. In its study the commission documented several obstacles that stand between Indian people and affordable, adequate, and available housing.

The Commission found there is currently little, if any, conventional lending available to native people seeking to purchase a home.

In addition, many Indian housing authorities lack the expertise to manage, coordinate, and maintain viable programs.

And importantly, tribal governments have had to rely primarily on Federal Government grant and loan programs to finance housing and economic development projects.

As a result of the study, the Commission recommended the creation of an entity that could serve as an intermediary financing institution with the authority to package mortgage loans, provide technical assistance, and serve as a clearinghouse of information for alternative financing programs.

Mr. President, the Native American Financial Services Organization Act is the culmination of extensive deliberations between officials from the Department of Housing and Urban Development, the Department of Treasury, the USDA, members of my staff, and staff of the Senate Committee on Indian Affairs. The purpose of this legislation is to create a financial infrastructure for commercial financing opportunities by and for Indian people. The primary mechanism that will bridge Indian tribes with the commercial lending markets will be the creation of a Native American Financial Services Organization.

The Native American Financial Services Organization would establish a limited Government-chartered corporation. A Federal grant would capitalize the federally chartered organization, which would cease to exist upon a designated date. At that point the charter would become a private corporation.

More specifically, the legislation is designed to:

First, establish and organize native American community lending institutions, that will be called Native American Financial Institutions. These lending institutions could be any type of financial institution, including community banks, credit unions and saving banks, that together, could provide a wide range of financial services;

Second, develop and provide financial expertise and technical assistance to the Native American Financial Institutions, including methods of underwriting, securing, and selling mortgage and small commercial and consumer loans; and

Third, develop and provide specialized technical assistance on how to overcome barriers to primary mortgage lending on native American lands, including issues related to trust lands, discrimination, and inapplicability of standard underwriting criteria.

Importantly, this legislation will work in conjunction with the Community Development Financial Institutions [CDFI] fund established in the Reigle Community Development Banking and Regulatory Improvement Act, signed into law by the President last year. Under a cooperative agreement with the CDFI fund, this legislation will provide technical assistance and other services to Native American Financial Institutions.

This week, Secretary Cisneros testified before the Committee on Indian Affairs. In his remarks, he stated that this legislation will "neither conflict nor duplicate the functions of CDFI or any other Government-sponsored enterprise, but is intended to supplement the efforts of existing organizations."

In short, the Native American Financial Services Organization would help provide financial independence to the native American community and would begin to address the housing deficiencies by working to attract private capital into the Indian housing market.

Mr. President, I would like to conclude my remarks by making reference to a letter I recently received from the chairperson of the Ute Mountain Ute Tribe, that I believe illustrates the great necessity for this legislation. The letter states that the shortage of housing in the community is so severe that among the approximately 1,500 tribal members, 400 are without a permanent home and that a waiting list for new housing approaches 300 people.

It is for this reason, that I believe the Native American Financial Services Organization is much needed. Statistics such as this merit the need for an innovative financing mechanism the Native American Financial Services Organization can provide.

Mr. President, in closing, I ask unanimous consent that the bill be printed in the RECORD immediately following the full text of my statement and that the statements of Senators MCCAIN and INOUYE, who are both original cosponsors, appear in the RECORD immediately following the bill.

I also ask unanimous consent to include letters from the Ute Mountain Ute Tribe, the Native American Indian Housing Council, and HUD's Secretary Henry Cisneros to be printed in the RECORD.

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

S. 436

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

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Native American Financial Services Organization Act of 1995".

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

TITLE I—STATEMENT OF POLICY; DEFINITIONS

SEC. 101. POLICY.

(a) IN GENERAL.—Based upon the findings and recommendations of the Commission on American Indian, Alaska Native and Native Hawaiian Housing established by the Department of Housing and Urban Development Reform Act of 1989, the Congress has determined that—

(1) housing shortages and deplorable living conditions are at crisis proportions in Native American communities throughout the United States; and

(2) the lack of private capital to finance housing and economic development for Native Americans and Native American communities seriously exacerbates these housing shortages and poor living conditions.

(b) POLICY OF THE UNITED STATES TO ADDRESS NATIVE AMERICAN HOUSING SHORTAGE.—It is the policy of the United States to improve the economic conditions and supply of housing in Native American communities throughout the United States by creating the Native American Financial Services Organization to address the housing shortages and poor living conditions described in subsection (a).

SEC. 102. STATEMENT OF PURPOSES.

The purposes of this Act are—

(1) to help serve the mortgage and other lending needs of Native Americans by assisting in the establishment and organization of Native American Financial Institutions, developing and providing financial expertise and technical assistance to Native American Financial Institutions, including assistance concerning overcoming—

(A) barriers to lending with respect to Native American lands; and

(B) the past and present impact of discrimination;

(2) to promote access to mortgage credit in Native American communities in the United States by increasing the liquidity of financing for housing and improving the distribution of investment capital available for such financing, primarily through Native American Financial Institutions;

(3) to promote the infusion of public capital into Native American communities throughout the United States and to direct sources of public and private capital into housing and economic development for Native American individuals and families, primarily through Native American Financial Institutions; and

(4) to provide ongoing assistance to the secondary market for residential mortgages and economic development loans for Native American individuals and families, Native American Financial Institutions, and other borrowers by increasing the liquidity of such investments and improving the distribution of investment capital available for such financing.

SEC. 103. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) ALASKA NATIVE.—The term "Alaska Native" has the meaning given the term "Native" by section 3(b) of the Alaska Native Claims Settlement Act.

(2) BOARD.—The term "Board" means the Board of Directors of the Organization established under section 201(a)(2).

(3) CHAIRPERSON.—The term "Chairperson" means the chairperson of the Board.

(4) COUNCIL.—The term "Council" means the Advisory Council established under section 206.

(5) DESIGNATED MERGER DATE.—The term "designated merger date" means the specific calendar date and time of day designated by the Board under section 502(b).

(6) DIRECTOR.—The term "Director" means the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.

(7) FUND.—The term "Fund" means the Community Development Financial Institutions Fund established under section 104 of the Riegle Community Development and Regulatory Improvement Act of 1994.

(8) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act that is recognized as eligible for the special programs and services provided by the Federal Government to Indians because of their status as Indians.

(9) MERGER PLAN.—The term "merger plan" means the plan of merger adopted by the Board under section 502(a).

(10) NATIVE AMERICAN.—The term "Native American" means any member of an Indian tribe.

(11) NATIVE AMERICAN FINANCIAL INSTITUTION.—The term "Native American Financial Institution" means a person (other than an individual) that—

(A) qualifies as a community development financial institution under section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994;

(B) satisfies the requirements established by the Riegle Community Development and Regulatory Improvement Act of 1994 and the Fund for applicants for assistance from the Fund;

(C) demonstrates a special interest and expertise in serving the primary economic development and mortgage lending needs of the Native American community; and

(D) demonstrates that the person has the endorsement of the Native American community that the person intends to serve.

(12) NATIVE AMERICAN LENDER.—The term "Native American lender" means a Native American governing body, Native American housing authority, or other Native American Financial Institution that acts as a primary mortgage or economic development lender in a Native American community.

(13) NEW CORPORATION.—The term "new corporation" means the corporation formed in accordance with title V.

(14) NONQUALIFYING MORTGAGE LOAN.—The term "nonqualifying mortgage loan" means a mortgage loan that is determined by the Organization, on the basis of the quality, type, class, or principal amount of the loan, to fail to meet the purchase standards of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation in effect on September 30, 1994.

(15) ORGANIZATION.—The term "Organization" means the Native American Financial Services Organization established under section 201.

(16) QUALIFYING MORTGAGE LOAN.—The term "qualifying mortgage loan" means a mortgage loan that is determined by the Organization, on the basis of the quality, type, class or principal amount of the loan, to meet the purchase standards of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation in effect on September 30, 1994.

(17) TRANSITION PERIOD.—The term "transition period" means the period beginning on the date on which the merger plan is approved by both the Secretary of Housing and Urban Development and the Secretary of the Treasury and ending on the designated merger date.

TITLE II—NATIVE AMERICAN FINANCIAL SERVICES ORGANIZATION

SEC. 201. ESTABLISHMENT OF THE ORGANIZATION.

(a) CREATION; BOARD OF DIRECTORS; POLICIES; PRINCIPAL OFFICE; MEMBERSHIP; VACANCIES.—

(1) CREATION.—

(A) IN GENERAL.—There is established and chartered a corporation to be known as the Native American Financial Services Organization.

(B) PERIOD OF TIME.—The Organization shall be a congressionally chartered body corporate until the earlier of—

(i) the designated merger date; or

(ii) the date on which the charter is surrendered by the Organization.

(C) CHANGES TO CHARTER.—The right to revise, amend, or modify the Organization charter is specifically and exclusively reserved to the Congress.

(2) BOARD OF DIRECTORS; PRINCIPAL OFFICE.—

(A) BOARD.—The powers of the Organization shall be vested in a Board of Directors. The Board shall determine the policies that govern the operations and management of the Organization.

(B) PRINCIPAL OFFICE; RESIDENCY.—The principal office of the Organization shall be in the District of Columbia. For purposes of venue, the Organization shall be considered to be a resident of the District of Columbia.

(3) MEMBERSHIP.—

(A) IN GENERAL.—

(i) NINE MEMBERS.—Except as provided in clause (ii), the Board shall consist of 9 members, 3 of whom shall be appointed by the President and 6 of whom shall be elected by the class A stockholders, in accordance with the bylaws of the Organization.

(ii) THIRTEEN MEMBERS.—If class B stock is issued under section 301(b), the Board shall consist of 13 members, 9 of whom shall be appointed and elected in accordance with clause (i) and 4 of whom shall be elected by the class B stockholders, in accordance with the bylaws of the Organization.

(B) TERMS.—Each member of the Board shall be elected or appointed for a 4-year term, except that the members of the initial Board shall be elected or appointed for the following terms:

(i) Of the 3 members appointed by the President—

(I) 1 member shall be appointed for a 2-year term;

(II) 1 member shall be appointed for a 3-year term; and

(III) 1 member shall be appointed for a 4-year term;

as designated by the President at the time of the appointments.

(ii) Of the 6 members elected by the class A stockholders—

(I) 2 members shall each be elected for a 2-year term;

(II) 2 members shall each be elected for a 3-year term; and

(III) 2 members shall each be elected for a 4-year term.

(iii) If class B stock is issued and 4 additional members are elected by the class B stockholders—

(I) 1 member shall be elected for a 2-year term;

(II) 1 member shall be elected for a 3-year term; and

(III) 2 members shall each be elected for a 4-year term.

(C) QUALIFICATIONS.—Each member appointed by the President shall have expertise in 1 or more of the following areas:

(i) Native American housing and economic development programs.

(ii) Financing in Native American communities.

(iii) Native American governing bodies and court systems.

(iv) Restricted and trust land issues, economic development, and small consumer loans.

(D) CHAIRPERSON.—The Board shall select a Chairperson from among its members, except that the initial Chairperson shall be selected from among the members of the initial Board who have been appointed or elected to serve for a 4-year term.

(E) VACANCIES.—

(i) APPOINTED MEMBERS.—Any vacancy in the appointed membership of the Board shall be filled by appointment by the President, but only for the unexpired portion of the term.

(ii) ELECTED MEMBERS.—Any vacancy in the elected membership of the Board shall be filled by appointment by the Board, but only for the unexpired portion of the term.

(F) TRANSITIONS.—Any member of the Board may continue to serve after the expiration of the term for which the member was appointed or elected until a qualified successor has been appointed or elected.

(b) POWERS OF THE ORGANIZATION.—The Organization may—

(1) adopt, alter, and use a corporate seal;

(2) adopt bylaws, consistent with this Act, regulating, among other things, the manner in which—

(A) the business of the Organization shall be conducted;

(B) the elected members of the Board shall be elected;

(C) the stock of the Organization shall be issued, held, and disposed of;

(D) the property of the Organization shall be disposed of; and

(E) the powers and privileges granted to the Organization by this Act and other law shall be exercised;

(3) make and perform contracts, agreements, and commitments, including entering into a cooperative agreement with the Fund;

(4) prescribe and impose fees and charges for services provided by the Organization;

(5)(A) settle, adjust, and compromise; and

(B) with or without consideration or benefit to the Organization, release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Organization;

if such settlement, adjustment, compromise, release, or waiver is not adverse to the interests of the United States;

(6) sue and be sued, complain and defend, in any tribal, Federal, State, or other court;

(7) acquire, take, hold, and own, and to deal with and dispose of any property;

(8) determine the necessary expenditures of the Organization and the manner in which such expenditures shall be incurred, allowed, and paid, and appoint, employ, and fix and provide for the compensation and benefits of officers, employees, attorneys, and agents as the Board determines reasonable and not inconsistent with this section;

(9) incorporate a new corporation under State, District of Columbia, or tribal law, as provided in section 501;

(10) adopt a plan of merger, as provided in section 502;

(11) consummate the merger of the Organization into the new corporation, as provided in section 503; and

(12) have succession until the designated merger date or any earlier date on which the Organization surrenders its Federal charter.

(c) INVESTMENT OF FUNDS; DESIGNATION AS DEPOSITARY, CUSTODIAN, OR AGENT.—

(1) INVESTMENT OF FUNDS.—Funds of the Organization that are not required to meet current operating expenses shall be invested in obligations of, or obligations guaranteed by, the United States or any agency thereof, or in obligations, participations, or other instruments that are lawful investments for fiduciary, trust, or public funds.

(2) DESIGNATION AS DEPOSITARY, CUSTODIAN, OR AGENT.—Any Federal Reserve bank or Federal home loan bank, or any bank as to which at the time of its designation by the Organization there is outstanding a designation by the Secretary of the Treasury as a general or other depositary of public money, may—

(A) be designated by the Organization as a depositary or custodian or as a fiscal or other agent of the Organization; and

(B) act as such depositary, custodian, or agent.

(d) ACTIONS BY AND AGAINST THE ORGANIZATION.—Notwithstanding section 1349 of title 28, United States Code, or any other provision of law—

(1) the Organization shall be deemed to be an agency covered under sections 1345 and 1442 of title 28, United States Code;

(2) any civil action to which the Organization is a party shall be deemed to arise under the laws of the United States, and the appropriate district court of the United States shall have original jurisdiction over any such action, without regard to amount or value; and

(3) any civil or other action, case, or controversy in a tribal court, court of a State, or in any court other than a district court of the United States, to which the Organization is a party, may at any time before the commencement of the trial be removed by the Organization, without the giving of any bond or security and by following any procedure for removal of causes in effect at the time of the removal—

(A) to the district court of the United States for the district and division in which the action is pending;

(B) or, if there is no such district court, to the district court of the United States for the District of Columbia.

SEC. 202. AUTHORIZED ASSISTANCE AND SERVICE FUNCTIONS.

(a) TECHNICAL ASSISTANCE AND SERVICES.—The Organization may—

(1) assist the Fund in the establishment and organization of Native American Financial Institutions;

(2) assist the Fund in developing and providing financial expertise and technical assistance to Native American Financial Institutions, including methods of underwriting, securing, servicing, packaging, and selling mortgage and small commercial and consumer loans;

(3) develop and provide specialized technical assistance on overcoming barriers to primary mortgage lending on Native American lands, including issues related to trust lands, discrimination, high operating costs, and inapplicability of standard underwriting criteria;

(4) assist the Fund in providing mortgage underwriting assistance (but not in originating loans) under contract to Native American Financial Institutions;

(5) work with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other participants in the secondary market for home mortgage instruments in identifying and eliminating barriers to the purchase of Native American mortgage loans originated by Native American Financial Institutions and other lenders in Native American communities;

(6) obtain capital investments in the Organization from Indian tribes, Native American organizations, and other entities;

(7) assist the Fund in the operation of the Organization as an information clearinghouse by providing information on financial practices to Native American Financial Institutions; and

(8) assist the Fund in monitoring and reporting to the Congress on the performance of Native American Financial Institutions in meeting the economic development and housing credit needs of Native Americans.

(b) PURCHASES AND SALES OF MORTGAGES AND MORTGAGE-BACKED SECURITIES.—

(1) IN GENERAL.—

(A) AUTHORIZATION.—If a determination is made in accordance with subparagraph (B), the Organization may, upon receipt of a written authorization from the Secretary of Housing and Urban Development under this paragraph, carry out any activity described in paragraph (3).

(B) DETERMINATION.—For purposes of subparagraph (A), a determination made under this section is a determination by the Secretary of Housing and Urban Development that the combined purchases by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation of residential Native American nonqualifying mortgage loans originated by Native American Financial Institutions and other lenders on housing consisting of between 1 and 4 dwelling units—

(i) in the second year following the establishment of the Organization, total less than $20,000,000 (unless the Organization can demonstrate to the Secretary of Housing and Urban Development that such purchase goal could not be met); or

(ii) in any succeeding year, total less than that amount that the Secretary of Housing and Urban Development has determined and published as a reasonable Native American mortgage purchase goal (in accordance with paragraph (2)) for such combined purchases by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation in such year.

(2) FACTORS CONSIDERED.—In determining the purchase goal described in paragraph (1)(B)(ii), the Secretary shall take into account the study by the Fund of Native American lending and investment conducted pursuant to section 117(c) of the Riegle Community Development and Regulatory Improvement Act of 1994.

(3) POWERS OF THE ORGANIZATION.—Upon receiving a written authorization from the Secretary of Housing and Urban Development under paragraph (1), the Organization may, at any time—

(A) with respect to residential mortgage loans originated by Native American Financial Institutions that are qualifying mortgage loans—

(i) purchase such qualifying mortgage loans;

(ii) hold such qualifying mortgage loans for a period of not to exceed 12 months; and

(iii) resell such qualifying mortgage loans to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or other secondary market participants, as provided in section 303(b);

(B) with respect to residential mortgage loans originated by the Native American Financial Institutions that are nonqualifying mortgage loans—

(i) purchase such nonqualifying mortgage loans from the Native American Financial Institutions for such terms as the Organization determines to be appropriate, including the life of the mortgage loan, if, with respect to any such loan—

(I) the Organization has reasonable assurance that the loan will be repaid within the time agreed;

(II) the Native American Financial Institution selling the loan retains a participation of not less than 10 percent in the mortgage;

(III) the Native American Financial Institution selling the loan agrees for such period of time and under such circumstances as the Organization may require, to repurchase or replace the mortgage upon demand of the Organization in the event that the loan is in default; or

(IV) that portion of the outstanding principal balance of the loan which exceeds 80 percent of the value of the property securing such loan is guaranteed or insured by a qualified insurer, as determined by the Organization; and

(ii) issue mortgage-backed securities or other forms of participations based on pools of such nonqualifying mortgage loans, as provided in section 303(c); and

(C) purchase, service, sell, lend on the security of, and otherwise deal in—

(i) residential mortgages that are secured by a subordinate lien against a property consisting of 1 to 4 dwelling units that is the principal residence of the mortgagor; and

(ii) residential mortgages that are secured by a subordinate lien against a property consisting of five or more dwelling units.

(4) RIGHTS AND REMEDIES.—

(A) IN GENERAL.—The rights and remedies of the Organization, including any rights and remedies of the Organization on, under, or with respect to any mortgage or any obligation secured thereby, shall be immune from impairment, limitation, or restriction by or under any State, District of Columbia, or tribal—

(i) law that becomes effective after the acquisition by the Organization of the subject or property on, under, or with respect to which such right or remedy arises or exists or would so arise or exist in the absence of such law; or

(ii) administrative or other action that becomes effective after such acquisition.

(B) QUALIFICATION.—The Organization may conduct its business without regard to any qualification or similar requirement in the District of Columbia, or any State or tribal jurisdiction.

SEC. 203. NATIVE AMERICAN LENDING SERVICES GRANT.

(a) INITIAL GRANT PAYMENT.—If the Fund and the Organization enter into a cooperative agreement for the Organization to provide technical assistance and other services to Native American Financial Institutions, such agreement shall, to the extent that funds are available as provided in section 602, provide that the initial grant payment, anticipated to be $5,000,000, shall be made when all members of the initial Board have been appointed under section 201.

(b) PAYMENT OF GRANT BALANCE.—The payment of the grant balance of $5,000,000 shall be made to the Organization not later than 1 year after the date on which the initial grant payment is made under subsection (a).

SEC. 204. AUDITS.

(a) INDEPENDENT AUDITS.—

(1) IN GENERAL.—The Organization shall have an annual independent audit made of its financial statements by an independent public accountant in accordance with generally accepted auditing standards.

(2) DETERMINATIONS.—In conducting an audit under this subsection, the independent public accountant shall determine and report on whether the financial statements of the Organization—

(A) are presented fairly in accordance with generally accepted accounting principles; and

(B) to the extent determined necessary by the Director, comply with any disclosure requirements imposed under section 401.

(b) GAO AUDITS.—

(1) IN GENERAL.—Beginning after the first 2 years of the operation of the Organization, unless an earlier date is required by any other statute, grant, or agreement, the programs, activities, receipts, expenditures, and financial transactions of the Organization shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General.

(2) ACCESS.—To carry out this subsection, the representatives of the General Accounting Office shall—

(A) have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Organization and necessary to facilitate the audit;

(B) be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians; and

(C) have access, upon request to the Organization or any auditor for an audit of the Organization under subsection (a), to any books, accounts, financial records, reports, files, or other papers, or property belonging to or in use by the Organization and used in any such audit and to any papers, records, files, and reports of the auditor used in such an audit.

(3) REPORTS.—The Comptroller General of the United States shall submit to the Congress a report on each audit conducted under this subsection.

(4) REIMBURSEMENT.—The Organization shall reimburse the General Accounting Office for the full cost of any audit conducted under this subsection.

SEC. 205. ANNUAL HOUSING AND ECONOMIC DEVELOPMENT REPORTS.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Organization shall collect, maintain, and provide to the Secretary of Housing and Urban Development, in a form determined by the Secretary, such data as the Secretary determines to be appropriate with respect to the Organization's—

(1) mortgages on properties consisting of between 1 and 4 dwelling units;

(2) mortgages on properties consisting of five or more dwelling units; and

(3) activities relating to economic development.

SEC. 206. ADVISORY COUNCIL.

(a) ESTABLISHMENT.—The Board shall establish an Advisory Council in accordance with this section.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of 13 members, who shall be appointed by the Board, including 1 representative from each of the 12 districts established by the Bureau of Indian Affairs and 1 representative from the State of Hawaii.

(2) QUALIFICATIONS.—Not less than 6 of the members of the Council shall have financial expertise, and not less than 9 members of the Council shall be Native Americans.

(3) TERMS.—Each member of the Council shall be appointed for a 4-year term, except that the initial Council shall be appointed, as designated by the Board at the time of appointment, as follows:

(A) Four members shall each be appointed for a 2-year term.

(B) Four members shall each be appointed for a 3-year term.

(C) Five members shall each be appointed for a 4-year term.

(c) DUTIES.—The Council shall advise the Board on all policy matters of the Organization. Through the regional representation of its members, the Council shall provide information to the Board from all sectors of the Native American community.

TITLE III—CAPITALIZATION OF ORGANIZATION

SEC. 301. CAPITALIZATION OF THE ORGANIZATION.

(a) CLASS A STOCK.—The class A stock of the Organization shall—

(1) be issued only to Indian tribes;

(2) be allocated on the basis of Indian tribe population, as determined by the Secretary of Housing and Urban Development in consultation with the Secretary of the Interior;

(3) have such par value and other characteristics as the Organization shall provide;

(4) be vested with voting rights, each share being entitled to 1 vote;

(5) be nontransferable; and

(6) be surrendered to the Organization if the holder ceases to be recognized as an Indian tribe under this Act.

(b) CLASS B STOCK.—

(1) IN GENERAL.—The Organization may issue class B stock evidencing capital contributions in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Organization.

(2) CHARACTERISTICS.—Any class B stock issued under paragraph (1) shall—

(A) be available for purchase by investors;

(B) be entitled to such dividends as may be declared by the Board in accordance with subsection (c);

(C) have such par value and other characteristics as the Organization shall provide;

(D) be vested with voting rights, each share being entitled to 1 vote; and

(E) be transferable only on the books of the Organization.

(c) CHARGES AND FEES; EARNINGS.—

(1) CHARGES AND FEES.—The Organization may impose charges or fees, which may be regarded as elements of pricing, with the objectives that—

(A) all costs and expenses of the operations of the Organization should be within the income of the Organization derived from such operations; and

(B) such operations would be fully self-supporting.

(2) EARNINGS.—All earnings from the operations of the Organization shall be annually transferred to the general surplus account of the Organization. At any time, funds in the general surplus account may, in the discretion of the Board, be transferred to the reserves of the Organization.

(d) CAPITAL DISTRIBUTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Organization may make such capital distributions (as such term is defined in section 1303 of the Federal Housing Financial Safety and Soundness Act of 1992) as may be declared by the Board. All capital distributions shall be charged against the general surplus account of the Organization.

(2) RESTRICTION.—The Organization may not make any capital distribution that would decrease the total capital (as such term is defined in section 1303 of the Federal Housing Financial Safety and Soundness Act of 1992) of the Organization to an amount less than the capital level for the Organization established under section 401, without prior written approval of the distribution by the Director.

SEC. 302. OBLIGATIONS AND SECURITIES OF THE ORGANIZATION.

(a) IN GENERAL.—

(1) AUTHORIZATION.—The Organization may—

(A) borrow funds to give security or pay interest or other return; and

(B) issue upon the approval of the Secretary of the Treasury, notes, debentures, bonds, or other obligations having maturities and bearing such rate or rates of interest as may be determined by the Organization with the approval of the Secretary of the Treasury;

if such borrowing and issuing of obligations qualifies as a transaction by an issuer not involving any public offering under section 4(2) of the Securities Act of 1933.

(2) RESTRICTIONS.—

(A) IN GENERAL.—Obligations issued by the Organization under this section shall not be obligations of the United States or any agency of the United States.

(B) NO GUARANTEES.—Payment of the principal of or interest on such obligations shall not be guaranteed by the United States or any agency of the United States. The obligations issued by the Organization under this section shall so plainly state.

(b) RESALES OF QUALIFYING MORTGAGE LOANS.—The sale or other disposition by the

Organization of qualifying mortgage loans under section 202(b) shall be on such terms and conditions relating to resale, repurchase, substitution, replacement or otherwise as the Organization may prescribe, except that the Organization may not guarantee or insure the payment of any mortgage loan sold under section 202(b).

(c) SECURITIES BACKED BY NONQUALIFYING MORTGAGE LOANS.—Securities in the form of debt obligations or trust certificates of beneficial interest, or both, and based upon nonqualifying mortgage loans held and set aside by the Organization under section 202(b)—

(1) may be issued upon the approval of the Secretary of the Treasury; and

(2) shall have such maturities, and shall bear such rate or rates of interest, as may be determined by the Organization with the approval of the Secretary of the Treasury;

if such issuance qualifies as a transaction by an issuer not involving any public offering under section 4(2) of the Securities Act of 1933.

(d) PROHIBITIONS AND RESTRICTIONS; CREATION OF LIENS AND CHARGES.—

(1) IN GENERAL.—The Organization may, by regulation or by writing executed by the Organization—

(A) establish prohibitions or restrictions on the creation of indebtedness or obligations of the Organization or of liens or charges upon property of the Organization, including after-acquired property; and

(B) create liens and charges, which may be floating liens or charges, upon all or any part or parts of the property of the Organization, including after-acquired property.

(2) EFFECT.—Any prohibition, restriction, lien, or charge established under paragraph (2) shall—

(A) have such effect, including such rank and priority, as may be provided by regulations of the Organization or by any writing executed by the Organization; and

(B) create a cause of action which may be enforced by action in the United States district court for the District of Columbia or in the United States district court for any judicial district in which any of the property affected is located.

(3) JURISDICTION; SERVICE OF PROCESS.—Process in any action described in paragraph (2) may run to or be served in any judicial district or in any place subject to the jurisdiction of the United States.

(e) VALIDITY OF PROVISIONS; VALIDITY OF RESTRICTIONS, PROHIBITIONS, LIENS, OR CHARGES.—This section and any restriction, prohibition, lien, or charge referred to in subsection (b) shall be fully effective notwithstanding any other law, including any law of or relating to sovereign immunity or priority.

SEC. 303. LIMIT ON TOTAL ASSETS AND LIABILITIES.

The aggregate of—

(1) the total equity of the Organization, including all capital from any issuance of class B stock; and

(2) the total liabilities of the Organization, including all obligations issued or incurred by the Organization;

shall not at any time exceed $20,000,000.

TITLE IV—REGULATION, EXAMINATION, AND REPORTS

SEC. 401. REGULATION, EXAMINATION, AND REPORTS.

(a) EFFECTIVE DATE OF SECTION.—This section shall take effect on the date on which the Secretary of Housing and Urban Development makes a determination in accordance with section 202(b) that the Organization may purchase and sell mortgages and mortgage-backed securities.

(b) IN GENERAL.—The Organization shall be subject to the regulatory authority of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development with respect to all matters relating to the financial safety and soundness of the Organization.

(c) DUTY OF DIRECTOR.—The Director shall ensure that the Organization is adequately capitalized and operating safely as a congressionally chartered body corporate.

(d) POWERS OF DIRECTOR.—The Director shall have all of the exclusive powers granted the Director under subsections (b), (d), and (e) of section 1313 of the Housing and Community Development Act of 1992, as determined by the Director to be necessary or appropriate to regulate the operation of the Organization.

(e) REPORTS TO DIRECTOR.—

(1) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Organization shall submit to the Director a report describing the financial condition and operations of the Organization. The report shall be in such form, contain such information, and be submitted on such date as the Director shall require.

(2) OTHER REPORTS.—In addition to the reports submitted under paragraph (1), the Organization shall submit to the Director any report required by the Director pursuant to section 1314 of the Housing and Community Development Act of 1992.

(3) CONTENTS OF REPORT.—Each report submitted under this subsection shall contain a declaration by the president, vice president, treasurer, or any other officer of the Organization designated by the Board to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.

(f) FUNDING OFHEO OVERSIGHT.—

(1) ASSESSMENT AND COLLECTION.—The Director shall assess and collect from the Organization such amounts as are necessary to reimburse the Office of Federal Housing Enterprise Oversight for the reasonable costs and expenses of the activities undertaken by the Office of Federal Housing Enterprise Oversight to carry out the duties of the Director under paragraph (2), including the costs of examinations and overhead expenses.

(2) REQUIREMENTS.—Annual assessments imposed by the Director shall be—

(A) imposed prior to October 1 of each year;

(B) collected at such time or times during each assessment year as determined necessary or appropriate by the Director;

(C) deposited into the Federal Housing Enterprises Oversight Fund established by section 1316(f) of the Housing and Community Development Act of 1992; and

(D) available, to the extent provided in appropriations Acts, for carrying out the responsibilities of the Director under this section.

SEC. 402. AUTHORITY OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

Except for the authority of the Director under in section 401, the Secretary of Housing and Urban Development shall—

(1) have general regulatory power over the Organization; and

(2) issue such rules and regulations applicable to the Organization as determined necessary or appropriate by the Secretary to ensure that the purposes specified in section 102 are accomplished.

TITLE V—FORMATION OF NEW CORPORATION

SEC. 501. FORMATION OF NEW CORPORATION.

(a) IN GENERAL.—In order to continue the accomplishment of the purposes specified in section 102 beyond the terms of the charter of the Organization, the Board shall, not later than 10 years after the date of enactment of this Act, cause the formation of a new corporation under the laws of any tribe, any State, or the District of Columbia.

(b) POWERS OF NEW CORPORATION NOT PRESCRIBED.—Except as provided in this section, the new corporation may have any corporate powers and attributes permitted under the laws of the jurisdiction of its incorporation which the Board shall determine, in its business judgment, to be appropriate.

(c) USE OF NAFSO NAME PROHIBITED.—The new corporation may not use in any manner the name "Native American Financial Services Organization" or "NAFSO" or any variation of thereof.

SEC. 502. ADOPTION AND APPROVAL OF MERGER PLAN.

(a) IN GENERAL.—Not later than 10 years after the date of enactment of this Act, the Board shall prepare, adopt, and submit to the Secretary of Housing and Urban Development and the Secretary of the Treasury for approval, a plan for merging the Organization into the new corporation.

(b) DESIGNATED MERGER DATE.—

(1) IN GENERAL.—The Board shall establish the designated merger date in the merger plan as a specific calendar date on which and time of day at which the merger of the Organization into the new corporation shall take effect.

(2) CHANGES.—The Board may change the designated merger date in the merger plan by adopting an amended plan of merger.

(3) RESTRICTION.—Except as provided in paragraph (4), the designated merger date in the merger plan or any amended merger plan shall not be later than 11 years after the date of enactment of this Act.

(4) EXCEPTION.—Subject to the restriction contained in paragraph (5), the Board may adopt an amended plan of merger that designates a date later than 11 years after the date of enactment of this Act if the Board submits to both the Secretary of Housing and Urban Development and the Secretary of the Treasury a report—

(A) stating that an orderly merger of the Organization into the new corporation is not feasible before the latest date designated by the Board;

(B) explaining why an orderly merger of the Organization into the new corporation is not feasible before the latest date designated by the Board;

(C) describing the steps that have been taken to consummate an orderly merger of the Organization into the new corporation not later than 11 years after the date of enactment of this Act; and

(D) describing the steps that will be taken to consummate an orderly and timely merger of the Organization into the new corporation.

(5) LIMITATION.—The date designated by the Board in an amended merger plan shall not be later than 12 years after the date of enactment of this Act.

(6) CONSUMMATION OF MERGER.—The consummation of an orderly and timely merger of the Organization into the new corporation shall not occur later than 13 years after the date of enactment of this Act.

(c) GOVERNMENTAL APPROVALS OF MERGER PLAN REQUIRED.—The merger plan or any amended merger plan shall take effect on the date on which the plan is approved by both the Secretary of Housing and Urban Development and the Secretary of the Treasury.

(d) REVISION OF DISAPPROVED MERGER PLAN REQUIRED.—If either the Secretary of Housing and Urban Development or the Secretary of the Treasury, or both, disapprove the merger plan or any amended merger plan—

(1) each Secretary that disapproves the plan shall notify the Organization of such disapproval and indicate the reasons for the disapproval; and

(2) not later than 30 days after the date of notification of disapproval under paragraph (1), the Organization shall submit to both the Secretary of Housing and Urban Development and the Secretary of the Treasury for approval an amended merger plan responsive to the reasons for the disapproval indicated in such notification.

(e) NO STOCKHOLDER APPROVAL OF MERGER PLAN REQUIRED.—The approval or consent of the stockholders of the Organization shall not be required to accomplish the merger of the Organization into the new corporation.

SEC. 503. CONSUMMATION OF MERGER.

The Board shall ensure that the merger of the Organization into the new corporation is accomplished in accordance with—

(1) the merger plan approved by the Secretary of Housing and Urban Development and the Secretary of the Treasury; and

(2) all applicable laws of the jurisdiction in which the new corporation is incorporated.

SEC. 504. TRANSITION.

(a) CONTINUATION OF RIGHTS, DUTIES, AND RESTRICTIONS.—Except as provided in this section, the Organization shall, during the transition period, continue to have all of the rights, privileges, duties, and obligations, and shall be subject to all of the limitations and restrictions, set forth in this Act.

(b) COLLATERALIZATION OF OUTSTANDING OBLIGATIONS.—

(1) IN GENERAL.—The Organization shall provide for all debt obligations of the Organization that are outstanding on the date before the designated merger date to be secured as to principal and interest by obligations of the United States held in trust for the holders of such obligations.

(2) REQUIREMENTS, TERMS, AND CONDITIONS.—The collateralization and the trust referred to in the preceding sentence shall be subject to such requirements, terms, and conditions as the Secretary of the Treasury determines to be necessary or appropriate.

(c) ISSUANCE OF NEW OBLIGATIONS DURING TRANSITION PERIOD.—As needed to carry out the purposes for which it was formed, the Organization may, during the transition period, continue to issue obligations under section 303. Any new obligation issued during the transition period shall mature before the designated merger date.

SEC. 505. EFFECT OF MERGER.

(a) TRANSFER OF ASSETS AND LIABILITIES.—

(1) TRANSFER OF ASSETS.—On the designated merger date, all property, real, personal, and mixed, all debts due on any account, and any other interest of or belonging to or due to the Organization shall be transferred to and vested in the new corporation without further act or deed, and title to any property, whether real, personal, or mixed, shall not in any way be impaired by reason of the merger.

(2) TRANSFER OF LIABILITIES.—On the designated merger date, the new corporation shall be responsible and liable for all obligations and liabilities of the Organization and neither the rights of creditors nor any liens upon the property of the Organization shall be impaired by the merger.

(b) TERMINATION OF THE ORGANIZATION AND ITS FEDERAL CHARTER.—On the designated merger date—

(1) the surviving corporation of the merger shall be the new corporation;

(2) the Federal charter of the Organization shall terminate; and

(3) the separate existence of the Organization shall terminate.

(c) REFERENCES TO THE ORGANIZATION IN LAW.—After the designated merger date, any reference to the Organization in any law or regulation shall be deemed to refer to the new corporation.

(d) SAVINGS CLAUSE.—

(1) PROCEEDINGS.—The merger of the Organization into the new corporation shall not abate any proceeding commenced by or against the Organization before the designated merger date, except that the new corporation shall be substituted for the Organization as a party to any such proceeding as of the designated merger date.

(2) CONTRACTS AND AGREEMENTS.—All contracts and agreements to which the Organization is a party and which are in effect on the day before the designated merger date shall continue in effect according to their terms, except that the new corporation shall be substituted for the Organization as a party to those contracts and agreements as of the designated merger date.

TITLE VI—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 601. AUTHORIZATION OF APPROPRIATIONS FOR NATIVE AMERICAN FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Fund, without fiscal year limitation, $20,000,000 to provide financial assistance to Native American Financial Institutions.

(b) NOT MATCHING FUNDS.—To the extent that a Native American Financial Institution receives a portion of an appropriation made under subsection (a), such funds shall not be considered to be matching funds required of the Native American Financial Institution under section 108(e) of the Riegle Community Development and Regulatory Improvement Act of 1994.

SEC. 602. AUTHORIZATION OF APPROPRIATIONS FOR ORGANIZATION.

The Secretary of Housing and Urban Development may, to the extent provided in advance in an appropriations Act, provide not more than $10,000,000 to the Fund for the funding of a cooperative agreement to be entered into by the Fund and the Organization for technical assistance and other services to be provided by the Organization to Native American Financial Institutions.

UTE MOUNTAIN UTE TRIBE
TOWAOC, COLORADO,
January 26, 1995.

Senator BEN NIGHTHORSE CAMPBELL,
Russell Office Building, Washington, DC.

DEAR SENATOR CAMPBELL: Thank you for your letter of January 25, 1995 requesting my comments on the draft Native American Financial Services Organization Act (NAFSO) attached thereto. Based on this Tribe's experience and on the House Committee on Banking, Finance and Urban Affairs report referenced in the draft, this type of assistance to Tribes is desperately needed. Your efforts to remedy the current housing situation for Native Americans is greatly appreciated.

After a brief review of the draft NAFSO, I have some initial observations. First, with respect to governance of NAFSO, it will be important to ensure that financial services experts are either on the Board of Directors or in a position to directly advise them. The issue here is that such experts will be required for a successful NAFSO and to assist in the establishment of NAFIs. Experts are necessary for the fiscal management of NAFSO itself.

Second, along these same lines, there probably should be some federal oversight, but not necessarily regulatory control, consistent with the United States's trust responsibility, to make sure NAFSO and NAFIs are properly established and operated. This oversight would be in addition to that required by the draft if NAFSO is authorized to purchase and sell Native American mortgages. Please advise if NAFIs would be subject to banking and lending laws as other such institutions are. Third, a more detailed explanation of what the "tribal contribution" will amount to in NAFSO's future would be beneficial. Many tribes with limited financial resources will have concerns about this facet of the legislation and some indication of what such contributions will entail may help to alleviate apprehension about them. Nevertheless, some tribes may oppose any tribal contributions at all. One would hope that the NAFSO could operate on its own resources if it is indeed successful.

To sum up, my primary concern involves ensuring that NAFSO will be successful, particularly considering it will be up to the Tribes in large part to do so. Some expert or federal representation on the Board of Directors would be helpful in this regard.

Coupled with this consideration is the importance of oversight for operations of NAFIs. This seems appropriate since the draft implies these institutions will be very similar to banks, institutions which are already highly regulated.

As you may be aware, the Department of Veteran's Affairs entered into a Cooperative Agreement with the Tribe on November 15, 1993 to assist us in obtaining home loans for veteran tribal members. To date, no loans have been processed under this Cooperative Agreement. At the same time, I have some concern about HUD's involvement in this program based on their inability to resolve this problem on its own. Nevertheless, surely HUD has learned much from its mistakes and should add to the process. Whether that agency should be a majority voice in the decision-making or policy formulating process is something that should be examined.

The shortage of suitable housing on this Reservation is severe. We currently have close to 400 individuals without a permanent home and near 300 which have placed themselves on the waiting list for housing. Out of the 1500 or so tribal members which reside here, this means over 25% of our people are without a permanent home. We also have information which indicates that upwards of 200 families are forced to share their homes with other families to provide the most basic of human needs, shelter. As you can understand, this desperate situation seriously affects tribal member's sense of self-worth and self-esteem.

Although this Tribe operates a Casino as well as other successful enterprises, we must utilize those funds for operation of the Tribal budget and economic development to keep our people working and reduce unemployment. It is for this reason that your draft NAFSO/NAFI legislation is urgently needed. Again, I cannot stress enough how much your efforts in this regard are appreciated. The Tribe acknowledges this effort and will endeavor to help where we can.

Thank you very much for the opportunity to comment. Please contact my office if you require anything further.

Sincerely,

JUDY KNIGHT FRANK,
Chairperson.

NATIONAL AMERICAN INDIAN
HOUSING COUNCIL,
Washington, DC, January 24, 1995.

Hon. BEN NIGHTHORSE CAMPBELL,
U.S. Senate, Washington, DC.

DEAR SENATOR: On behalf of the NAIHC's Board of Directors and membership, I am writing to thank you for supporting legislation that is very important to the Native American community. In particular, your support for the Native American Financial Services Organization (NAFSO) is greatly appreciated as NAIHC believes this legislation will bring much needed relief to solving the housing problems for Native Americans.

The housing needs in Indian Country remain acute and we recognize that we must move beyond housing assistance from the federal government. NAFSO will help us do so. We believe that allowing the creation of Native American Financial Institutions (NAFIs) will also stimulate local economies and encourage privately financed housing.

Your recognization that NAFSO will have a positive affect on Indian Country is appreciated and valued. Please feel free to contact me if I can be of further support regarding this legislation.

Sincerely,

RUTH A. JAURE,
Executive Director.

U.S. DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT,
Washington, DC, September 22, 1994.

Hon. ALBERT GORE, Jr.,
President of the U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: I am pleased to transmit to you the "Native American Financial Services Organization Act of 1994." For the past several months, the Department of Housing and Urban Development has been working with the Departments of the Treasury, the Interior, Agriculture and Veterans' Affairs, in consultation with the Native American Community to develop this bill.

Based upon the findings and recommendations of the Commission on American Indian, Alaska Native and Native Hawaiian Housing, established by Public Law 101-235, HUD believes that housing shortages and deplorable living conditions have reached crisis proportions in Native American communities throughout the United States.

Historically, financing for most Native American housing and economic development has been provided through government programs. These federal programs, however, do not fully meet the needs of Native American communities. Furthermore, there are few financial institutions that provide financial services to these communities.

To begin to address this crisis, the Department is proposing this legislation to improve the conditions and supply of housing in Native American communities by creating the Native American Financial Services Organization. This legislation would establish a limited government-chartered corporation to be known as the Native American Financial Services Organization (NAFSO). A Federal grant would capitalize the federally-chartered, for-profit NAFSO through a cooperative agreement. Under the agreement, NAFSO could assist Native Americans in creating local financial institutions to address their capital needs. The Federal NAFSO charter would cease to exist upon a designated date, by which time it would be merged into a private corporation. The legislation also provides for an "asset cap" that is designed to limit the size of the NAFSO to $20 million. It is anticipated that the NAFSO will be privatized in order to grow beyond this limit. It also is anticipated that tribal contributions would assist the NAFSO in becoming self-sufficient over time.

The governance of the NAFSO would be vested in a Board of Directors that would be representative of the Native American community. Shares would be equitably distributed among federally-recognized tribes; the Board could elect to distribute additional shares on an investment basis.

It is the purpose of this Act—

(1) to help serve the mortgage, economic development, and other lending needs of Native Americans by assisting in the establishment and organization of Native American community lending institutions that would be called Native American Financial Institutions (NAFIs); NAFIs would be any type of financial institution, including community banks, credit unions and savings banks, and therefore could provide a wide range of financial services;

(2) to develop and provide financial expertise and technical assistance to NAFIs, including assistance on how to overcome barriers to lending on Native American lands, and the past and present impact of discrimination;

(3) to promote access to mortgage and economic development credit throughout Native American communities by increasing the liquidity of financing for housing and improving the distribution of investment capital available for such financing, primarily through NAFIs;

(4) to direct sources of public and private capital into housing and economic development for Native American individuals and families, primarily through NAFIs; and,

(5) to provide ongoing assistance to the secondary market for residential mortgages and economic development loans for Native American individuals and families, NAFIs, and other borrowers by increasing the liquidity of such mortgage investments and improving the distribution of investment capital available for such residential mortgage financing.

At the outset, it is contemplated that the NAFSO itself will not purchase and sell Native American mortgages originated by the NAFIs, but rather will work with the existing secondary market for residential mortgages to increase the liquidity for such investment. However, if it is later determined that the secondary market is not meeting reasonable mortgage purchase goals established by this department, the NAFSO will be authorized to purchase and sell such mortgages.

The Secretary of Housing and Urban Development would be authorized to provide up to $10 million, subject to appropriations, for the funding of a cooperative agreement for technical assistance and other services to be provided by the NAFSO to NAFIs. In addition, there would be authorized, without fiscal year limitation, $20 million to provide financial assistance through the NAFSO to NAFIs. Funding would be made available from the Community Development Financial Institution (CDFI) fund. NAFIs are not eligible for additional funding under the CDFI fund if the NAFI elects to receive funding under this Act.

This legislation further provides that the Office of Federal Housing Enterprise Oversight would regulate matters pertaining to the financial safety and soundness of the NAFSO in the event that the NAFSO is authorized to purchase and sell Native American mortgages and the Department of Housing and Urban Development would have general regulatory authority.

The "Native American Financial Services Act of 1994" would provide financial independence to the Native American community that has never been enjoyed before. It provides the structure to marry private financial resources with Federal and tribal resources in a way that benefits all parties. The creation of the NAFSO would have the ripple effect of opening avenues to economic development and housing that have not been available heretofore.

The Office of Management and Budget has advised that it has no objection to the transmittal of this legislation to Congress.

I request that the bill be referred to the appropriate committee and urge its early consideration. I am sending a similar letter to the Speaker of the House of Representatives, Thomas S. Foley.

Sincerely,

HENRY G. CISNEROS,
Secretary.

Mr. INOUYE. Mr. President, I rise today to express my support for a measure being introduced by my esteemed colleague from Colorado, Senator BEN NIGHTHORSE CAMPBELL. This measure, the Native American Financial Services Organization Act of 1995, is being introduced at the request of the administration. It is the end-product of a multiagency Federal working group whose goal was to craft a legislative proposal which would encourage, promote, and foster the delivery of housing and economic development financing to native American families and communities.

Mr. President, it is difficult for many of us here to comprehend the sheer magnitude of the housing needs of this Nation's native communities. In 1993, the Bureau of Indian Affairs of the U.S. Department of Interior estimated that 88,689 native American families were in need of housing assistance. But anyone familiar with Indian country would agree that these figures reflect a gross underestimation. I am pleased to note that in the next few months, the Department of Housing and Urban Development will be releasing the results of an assessment of Indian housing needs and programs. This survey is one of the most ambitious and comprehensive ever undertaken, and it is my hope that we in the Congress will finally be provided with a more accurate picture of the housing needs and conditions of native American families.

The Native American Financial Services Organization Act has its genesis in the finding and recommendations of the National Commission on American Indian, Alaska Native, and Native Hawaiian housing. The Commission, established pursuant to Public Law 101–235, documented that native American Families and communities were overwhelmingly and consistently access to conventional financing mechanisms, often due to the unique legal status of Indian trust lands. The Commission recommended the creation of a Native American Finance Authority to direct sources of capital to native Americans, native American families, and other eligible mortgagors in order that they might meet their housing and related infrastructure needs.

Mr. President, this administration heeded the Commission's call for action. The Department of Housing and Urban Development spearheaded a multi-departmental effort, which included representatives for the Department of the Treasury, the Bureau of Indian Affairs, and the Office of Management and Budget. The working group began with the Commission's legislative proposal, and ended with the measure which I am honored to be co-sponsoring today. This administration deserves to be commended for recognizing the distressed housing conditions under which many of our native American families live and for taking deliberate and meaningful steps to change and improve these circumstances.

In many, many respects, the measure being introduced today addresses the concerns of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing and embodies the spirit of the Commission's recommendations. But Mr. President, I wish to point out one very fundamental difference between this measure, and the Commission's legislative proposal. The omission—one which I have just cause to be concerned about—is a glaring one, for while the original proposal included native Hawaiians, the bill before us today does not.

Mr. President, the Commission's final report documented that native Hawaiians are among the neediest in the State of Hawaii—they have the worst housing conditions and the highest percentage of homelessness, representing over 30 percent of the State's homeless population. Under any circumstances, the figures would be deplorable, but the truth is that this situation can only worsen. I surely do not need to point out that Hawaii is one of the most expensive States in which to build, rent, or purchase a home, and that, according to a recent survey conducted by the National Association of Home Builders, Honolulu ranked 179th out of 185 places in home affordability.

Mr. President, I stand here, not only as a co-sponsor, in support of this measure, but as the senior Senator from the State of Hawaii and one who has long sought to address the housing needs of the native Hawaiian people. I must express for the record my disappointment that this bill departs from the recommendation of the very Commission which was the genesis for the concept of a financial service organization—namely that native Hawaiians should be included in this measure. I assure you that I will seek to honor the Commission's recommendations.

Mr. MCCAIN. Mr. President, today I am pleased to join as an original cosponsor of a bill to establish a Native American Financial Services Organization [NAFSO] that will provide financial incentives to increase homeownership opportunities in Indian and Alaska Native communities.

Indian housing problems have reached crisis proportions with seriously deteriorating conditions and severe overcrowding. The latest U.S. Census report indicates that 18 percent of Indian reservation homes are overcrowded, while the comparable data for the Nation as a whole is 2. The shortage of housing is made even more acute by the deplorable condition of existing housing in native American communities. Many Indian homes lack running water, indoor bathrooms, sufficient heat, or weatherization.

To date, most of the housing construction done on reservations has been financed directly by the U.S. Government. But Indian housing needs have far out-stripped the capacity of Federal housing construction efforts. Everyone who has looked at the problem agrees that one main reason for the Indian housing disaster is an absence of private capital participation in financing housing in Indian and Alaska Native communities.

The bill I am cosponsoring today would begin to change the Federal role in Indian housing in ways that strengthen and empower local tribal governments in their efforts to increase housing opportunities in their communities. The bill would do this by federally chartering a limited, for-profit corporation to be known as the Native American Financial Services Organization [NAFSO]. NAFSO would assist Indians and Alaska Natives to create local financial institutions that will attract capital investment in housing in Indian communities. It would also work within the existing secondary market to increase the liquidity of mortgages placed on housing located on land held in trust for Indians by the United States. If sufficient levels of private lending are not achieved, at a later date NAFSO could enter the secondary market itself to purchase and sell portages.

I am particularly pleased that the bill contains a sunset-type provision under which the Federal charter would cease and NAFSO would be merged into a private corporation to permit further growth and attract private contributions, including those of tribes with funds to invest in Indian and native American housing.

I look forward to a hearing on this bill because it will provide an opportunity for the Committee on Indian Affairs to evaluate this proposal to ensure that it is properly designed to accomplish its goals. While a commission on Indian and native American housing recommended the concepts underlying this bill, and while many tribal governments already are on record in support of the bill as introduced, I will ask tribes and tribal organizations to scrutinize the bill and provide the committee with recommendations to improve it and sharpen its focus on the serious problems plaguing Indian housing.

I commend HUD Secretary Cisneros for his increased support for Indian housing efforts, one of which is reflected in the Department's development of this NAFSO proposal, and I look forward to working with the administration to enact this important legislation.

By Ms. SNOWE:

S. 437. A bill to establish a Northern Border States-Canada Trade Council, and for other purposes; to the Committee on Finance.

ESTABLISHMENT OF A NORTHERN BORDER STATES COUNCIL ON UNITED STATES AND CANADIAN TRADE

• Ms. SNOWE. Mr. President, today I am introducing legislation that would establish the Northern Border States Council on United States-Canada Trade. The purpose of this Council is to oversee cross-border trade with our Nation's largest trading partner—an action that I believe is long overdue. The Council will serve as an early warning system to alert State and Federal trade officials to problems in cross-border traffic and trade. And the Council will help the United States more efficiently manage the administration of its trade policy with Canada by applying the wealth of insight, knowledge and expertise that resides in our northern border States on this critical policy issue.

Yes, we already have the Department of Commerce and a U.S. Trade Representative. But the fact is that these both are federal entities, responsible for our larger, national U.S. trade interest. Too often, they do not look after the interests of the 12 Northern States that share a border with Canada. The Northern Border States Council will provide State trade officials a mechanism to share information about cross-border traffic and trade. The Council will then advise the Congress, the President, the United States Trade Representative, the Secretary of Commerce, and other Federal and State trade officials on United States-Canada trade policies, practices, and relations.

Canada is America's largest trading partner. Trade with Canada accounts for approximately one-fifth of total United States exports and Canada is the top purchaser of U.S. exports. Canada is also the largest supplier of United States imports. Canada needs to maintain close trade ties with the United States to assure its survival. The Canadian economy is heavily oriented on exports, and most—roughly 75 percent—of that trade is directly with the United States.

Over the last decade, Canada and the United States have signed two major trade agreements—the United States-Canada Free-Trade Agreement in 1989, and the North American Free-Trade Agreement in 1993. Notwithstanding these trade accords, numerous disagreements have caused trade negotiators to shuttle back and forth between Washington and Ottawa. Most of the more well-known trade disputes with Canada have dealt with agricultural commodities such as durum wheat, peanut butter, dairy products, and poultry products, and these disputes have impacted more than just the 12 northern border States.

But each and every day an enormous quantity of trade and traffic crosses the United States-Canada border. There are literally thousands of businesses, large and small, that rely on this cross-border traffic and trade for their livelihood. Any disruption in that flow of traffic and trade, whether intentional or not, would have traumatic economic consequences on hundreds of thousands, if not millions, of people in the 12 northern border States.

The people best qualified to monitor that cross-border traffic and trade live in the States along our northern border—States that share that border with Canada. This is why it is important that the members of this Council be from those States.

My own State of Maine has had a long-running dispute with Canada over that Nation's unfair policies in support of its potato industry. Specifically, Canada protects its domestic potato growers from United States competition through a system of nontariff trade barriers, such as setting container size limitations and a prohibition on bulk imports from the United States. This bulk import prohibition effectively blocks United States potato imports into Canada. At the same time, Canada artificially enhances the competitiveness of its product through domestic subsidies for potato growers.

Another trade dispute with Canada, specifically with the province of New Brunswick, served as the inspiration for this legislation. In July 1993, Canadian Federal Customs Officials began stopping Canadians returning from Maine and collecting from them the 11-percent New Brunswick provincial sales tax [PST] on goods purchased in Maine. Canadian Customs Officers had already been collecting the Canadian Federal sales tax all across the United States-Canada border. The collection of the New Brunswick PST was specifically targeted against goods purchased in Maine—not on goods purchased in any of the other provinces bordering New Brunswick. The premier of New Brunswick even admitted that his province had no intention of trying to collect the PST along any of its provincial borders. Only along the border with Maine.

After months of imploring the United States Trade Representative to do something about the imposition of the unfair tax, Ambassador Kantor agreed that the New Brunswick PST was a violation of NAFTA, and that the United States would include the PST in the NAFTA dispute settlement process. It has languished in that process for almost a year because Canada and Mexico have been stubbornly refusing to finalize the details of the NAFTA dispute resolution process.

Throughout the early months of the PST dispute, we in the State of Maine had enormous difficulty convincing our Federal trade officials that the PST was in fact an international trade dispute that warranted their attention action. We had no way of knowing if the PST was a national problem, or a localized one. If a body like the Northern State Trade Council had been in existence when the collection of the PST began, if would have immediately started investigating the issue to determine its causes and make recommendations on how to deal with it.

In short, the Northern Border States Council will serve as the eyes and ears for our States that share a border with Canada, and are vulnerable to fluctuations in cross-border trade and traffic. The Council will be a tool for Federal and State officials to use in monitoring their cross-border trade. It will help ensure that national trade policy regarding America's largest trading partner will be developed and implemented with an eye toward the unique burdens and opportunities present to the northern border States.

The Northern Border States Council will be an advisory body, not a regulatory one. Its fundamental purpose will be to determine the nature and course of cross-border trade issues or disputes, and to recommend how to resolve them.

The duties and responsibilities of the Council will include, but are not limited to, providing advice and policy recommendations on such matters as taxation and the regulation of cross-border wholesale and retail trade in goods and services; taxation, regulation and subsidization of food, agricultural, energy, and forest-products commodities; and the potential for Federal, State, and Canadian provincial laws and regulations—including customs and immigrations regulations—to act as nontariff barriers to trade.

As an advisory body, the Council will review and comment on all Federal and/or State reports, studies, and practices concerning United States-Canada trade, with particular emphasis on all reports from the dispute settlement panel established under the North American Free Trade Agreement. These Council reviews will be conducted upon the request of the U.S Trade Representative, the Secretary of Commerce, any Member of Congress from a Council State, and the Governor of a Council State.

If the Council determines that the origin of a cross-border trade dispute resides with Canada, the Council must determine, to the best of its ability, if the source of the dispute is the Canadian Federal Government or a Canadian provincial government.

My goal is not to create another Federal trade bureaucracy. The Council will be made up of individuals nominated by the Governors and approved by the Secretary of Commerce. Each Northern border State will have two members on the Council. The Council members will be unpaid, and serve a 2-year term.

The Northern Border States Council on United States-Canada Trade will not solve all of our trade problems with Canada. But it will ensure that the voices and views of our northern border States are heard in Washington by our Federal trade officials. For too long their voices were ignored, and the northern border States have had to suffer severe economic consequences at times because of it. This legislation will restore our northern border States to their rightful position as full partners in administering and managing cross-border trade and traffic with America's largest trading partner.

I urge my colleagues to join me in supporting this important legislation.●

By Ms. SNOWE:

S. 438. A bill to reform criminal laws, and for other purposes; to the Committee on the Judiciary.

LEGISLATION TO STRENGTHEN AMERICA'S ANTI-CRIME LAWS

● Ms. SNOWE. Mr. President, today I am introducing legislation to address the serious problem of crime in America, while offering stronger protection to the victims of crime. My legislation will propose mandatory minimum sentences for criminals who use a firearm while committing violent State crimes; require truth-in-sentencing provisions so that criminals complete at least 85 percent of their sentences; eliminate prison luxuries that coddle prisoners, and require courts to order restitution for the victims of crimes.

Many of these proposals—which are designed to strengthen the crime package passed by Congress last year—are not new. Some have already won passage in the Senate as part of the Senate-passed crime bill. But they are important proposals—and it is important for our citizens and especially for our children—that we include these plans to get tough on crime.

When 23 million households will suffer from crimes this year, it is no wonder that crime is the number one concern of most Americans, whether in a relatively safe State like Maine, or here in the District of Columbia. As Americans scan the front page of the newspapers every morning, word of crimes right in our own neighborhoods catches our eye, puts us on guard—and keeps the American people on edge. We have been raised in a humane and advanced nation—and our citizens place a premium on safety, security. For too many Americans, the home is no longer a castle. Too many Americans must lock up their homes like a fortress, and walk through our streets with fear because of the scourge of violent crime.

Indeed, Americans no longer feel safe in their own neighborhoods. In the 35 years since 1960, the population of the United States has increased by 44 percent. Over that same time, violent crime in America has increased by more than 500 percent. Our Nation has lost its edge in law enforcement and in humane social efforts that meet the root causes of crime. Indeed, according to a recent study published in Business Week, crime bears an enormous cost: The total direct and indirect cost of crime in America is a staggering $425 billion.

Sadly, crime does not discriminate across regional or social boundaries. Crime reaches to us all—and exacts a devastating personal toll on its victims and their families and loved ones. Few among us have escaped the devastating impact of crime. Every day, 14 Americans are murdered, 48 are raped, and 578 are robbed. In our lifetimes, one-third of all Americans will be robbed. Three-fourths will be assaulted.

In the course of the average day in America, there is a murder every 21 minutes. Rape is committed once every 5 minutes. Robberies occur every 46 seconds. Burglaries occur every 10 seconds. Imagine: A boy born in 1978 stands a greater chance of being murdered in the United States than one of our brave soldiers in World War II stood of dying in combat.

Last year, Congress passed the President's crime bill—a package that took steps to punish violent criminals and keep them off the streets, and to address the root problems of crime. Unfortunately, however, the President's bill stopped short of proposals that I believe will give our Nation's anticrime laws teeth.

My legislation includes tough provisions to provide mandatory minimum sentences for violent State crimes, or State drug trafficking crimes involving the use or possession of a firearm. Clearly, we must crack down on the violent offenders who have been proven responsible for the vast majority of crimes.

Studies by the criminologist Marvin Wolfgang show that just 7 percent of each age group was responsible for two-thirds of all violent crime, including three-fourths of all rapes and robberies—and virtually every murder. According to Mr. Wolfgang's study—conducted in Philadelphia over a 13-year period—this 7 percent of the population had five or more arrests by the age of 18. For every arrest, each individual had gotten away with another dozen crimes.

Indeed, it is estimated that last year, more than 1,100 convicted murderers did not go to prison; more than 6,900 convicted rapists did not go to prison; more than 37,000 individuals convicted of aggravated assault did not go to prison.

My proposal will impose tough mandatory minimum sentences on violent criminals. For first-time offenders, we will direct the courts to impose sentences of 10 years for those who possess a firearm; 20 years if they discharge that firearm with the intent to harm another person; and 30 years for possession of a machine gun or other weapon equipped with a firearm silencer or muffler.

Too often, however, even a tough first sentence is not enough to stop the endless cycle of crime. More than 40 percent of murderers released from State prisons are re-arrested for a felony or serious misdemeanor within 3 years—more than 20 percent for another violent crime. Of the 50,000 violent criminals who are put on probation this year, more than 9,000 will not learn their lesson. They will be re-arrested in the same State within 3 years for another violent crime. An astonishing 10 percent of America's jail population—39,000 people in 1989—committed their current crime while out on parole.

So for second-time offenders, we will make our mandatory minimum sentences tougher; 20 years for possession of a firearm, 30 years for discharge of a firearm with the intent to injure another person, and life in prison for possession of a machine gun.

And for a third offense? Three strikes and they're out—for life imprisonment for any violent offender.

My provisions for mandatory minimum sentences will prohibit States from offering probation or suspended sentences, and we will direct the courts that sentences cannot run concurrently. This legislation also provides for Good Samaritans or for citizens who act in self-defense: the provision will not apply to those acting in defense of person or property during the course of a crime committed by another person.

Criminals have also learned, over times, that the odds in sentencing are in their favor. For every 100 violent crimes reported, only 4 criminals go to prison. The risk of punishment for a serious criminal offense has declined by two-thirds since 1950, while the annual number of serious crimes is seven times greater than it was then. This fact is not lost on criminals, who know that if they scoff at the criminal justice system—and hire a good lawyer—they can go free in little, if any time. Even when criminals are convicted and sent to prison after appeals, they know that the average violent offender—who in 1990 received a sentence of 7.8 years—will serve just over 3 years in jail.

To make sure that convicted criminals serve their time, my legislation will enact truth-in-sentencing provisions. In order to be eligible for prison funding under the 1994 crime bill, this legislation will require that States change their laws to require violent offenders to serve a minimum of 85 percent of their required sentence.

Prison is not meant to be a pleasant experience: it is meant, instead, to serve as both a deterrent to crime and to rehabilitate criminals so that they can again become productive members of society. Too often, however, our criminal justice system has coddled prisoners with luxury items that even hard-working Americans can not afford. Indeed, our Federal prison system has earned the nickname "Club Fed" because of its luxury. I believe our Federal prison system must instead address the root causes of crime as it rehabilitates prisoners. We should eliminate the luxuries in our prisons from expansive weight lifting equipment to X-rated movies, cable television, computer, even miniature golf.

Instead, we should require every able-bodied prisoner to work, and begin to return to society part of what the prisoner has taken. My legislation will give the Attorney General 120 days to implement and enforce regulations mandating prison work for able-bodied inmates in Federal penal and correctional institutions.

In addition to these provisions that get tough on criminals and make our tough sentences stick, my legislation includes provisions to require increased fairness—and awareness—of the victims of crimes. For the 5 million people each year who are victims of violent crimes—such as rape, murder, robbery or assault—these provisions will provide increased security and peace of mind. While criminals can pursue one legal remedy after another, victims of crimes quickly exhaust their options and are frequently forced to quietly bear the brunt of the crime, alone, and without restitution.

Victim restitution presently can be ordered by courts, at the discretion of the court. My legislation will require courts to order restitution, and extends to the victims of crimes the same sort of safeguards that we extended to women in the Violence Against Women Act, which I cosponsored in the House.

This legislation will state that victims should be reimbursed for all necessary expenses related to the investigation and prosecution of crime, whether child care, transportation or other expenses. No longer will the economic cost of prosecution serve as a deterrent that could keep victims from vigorously pursuing justice.

This legislation also will require reimbursement to the victim for medical services resulting from physical, psychiatric or psychological care, physical and occupational therapy costs due to rehabilitation, and all other losses suffered by the victim because of the crime. I believe that these provisions provide basic fairness for the victims of crime, and begin to balance our criminal justice system again by keeping in mind the needs of crime victims.

Mr. President, the people of Maine and America have a right to be personally secure, free from the fear of violent crime. My legislation combines positive steps that punish criminals and keep them off the streets, and to meet the often-overlooked needs of the victims of crime. This is legislation that is overdue, and will improve our Nation's crime-fighting efforts.

I urge my colleagues to join me in supporting this legislation.•

By Mr. THOMAS (for himself, Mr. LOTT, Mr. SIMPSON, Mr. INHOFE, Mr. COATS, Mr. MURKOWSKI, and Mr. COCHRAN):

S. 439. A bill to direct the Director of the Office of Management and Budget to establish commissions to review regulations issued by certain Federal departments and agencies, and for other purposes; to the Committee on Governmental Affairs.

REGULATORY REFORM COMMISSION ACT

• Mr. THOMAS. Mr. President, it is well known that Federal regulations stifle economic growth. The cost of complying with Federal regulations alone is estimated to be between $300 and $500 billion per year—$4,000 to $6,000 for every working man and woman in America. The private sector spends 6.6 billion hours year complying with Federal paperwork requirements. The number of pages in the Federal Register last year was 45 percent higher than the number in 1986—without the Clinton health care bill going anywhere.

These excessive and misguided mandates impose enormous economic costs that limit economic growth and job creation. Small and medium-sized businesses—which are the businesses in my State of Wyoming—are disproportionately hurt by overregulation because they have fewer resources to allocate for compliance.

Mr. President, the 1994 elections were about change. The American people want less government in their lives. They don't want OSHA inspectors breathing down their necks, they don't want to pay for unnecessary EPA mandated facilities and they don't want Washington bureaucrats telling them how to live their lives.

That is why I am introducing the Regulatory Reform Commissions Act. This measure is designed to look back, review, and reduce existing regulations. My legislation would establish three bipartisan Regulatory Review Commissions, one for each selected Federal department or agency. Initially, I have selected the Departments of Interior, Labor, and the Environmental Protection Agency [EPA]. Over a 2-year period, the commissions will examine all regulations within the selected Federal department or agency and determine if the regulations are justified and report all appropriate changes to Congress, the department, and the Director of the Office of Management and Budget [OMB]. The commissions will examine the department's or agency's rules based on the following criteria: Whether the regulations are within the scope of authority of the statutes under which the regulations were issued; whether the regulations are consistent with the original intent of Congress; whether the regulations are based on cost/benefit analysis; and whether the regulations are subject to judicial review.

There have been several different proposals, which I support, to prevent new onerous regulations. This legislation is a perfect fit with those efforts, because it reviews the rules already on the books.

I urge my colleagues to join me in the effort against overregulation.•

By Mr. WARNER (for himself, Mr. CHAFEE, Mr. BAUCUS, Mr. MOYNIHAN, Mr. BOND, Mr. FAIRCLOTH, Mr. KEMPTHORNE, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. INHOFE, Mr. REID, Mr. SMITH, Mr. LUGAR, Mrs. BOXER, Mr. GRAHAM, and Mr. PELL):

S. 440. A bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes; to the Committee on Environment and Public Works.

THE NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995

• Mr. WARNER. Mr. President, I am pleased to be joined today by Chairman CHAFEE, Senator BAUCUS, Senator LAUTENBERG, Senator BOND, and others.

We are here today to provide assurances to the States, to commercial activities dependent on a viable transportation system, and to the motoring public that the Congress will enact the National Highway System legislation this year.

The legislation I am introducing to designate the National Highway System is sponsored by 14 of my colleagues.

The National Highway System is the cornerstone of the 1991 ISTEA statute which preserves a Federal role in a core surface transportation network.

As we come to the completion of the Eisenhower Interstate System, the NHS is the next generation of Federal focus to meet transportation challenges into the 21st century.

This system of 159,000 miles—although only a small fraction of highways in this country—consists of the 44,000-mile Interstate System and other primary routes.

Today, we affirm that Federal responsibility by ensuring a consistency of road engineering and safety among the States to provide for the free flow of commerce and to efficiently move people.

Ideally, Congress has only to approve the map which is the product of a joint effort between the Department of Transportation and our States. But, pragmatically, we all know that this legislation will be the 18-wheeler that will carry other issues.

We must not, however, be detoured from our mission.

Without passage of this bill, we know that our States will be crippled by the sanction of a loss of $6 billion until Congress does its job.

The NHS also will allow States to benefit from the flexibility and intermodalism which is the hallmark of ISTEA.

For the first time, States will focus their investments on connecting our rail, air, commercial water ports, and highways so that performance of the entire system can be maximized.

The NHS also provides an opportunity for States to target their future investments on these routes which carry high volumes of commuter traffic and commercial truck traffic.

Improving the safety of the motoring public must remain a Federal priority.

Routes on the NHS must be among the first to benefit from the application of new and emerging technologies to improve safety and reduce congestion.

In Virginia, the twin problems of congestion and safety in major urban/suburban areas have been the focus of our transportation policies for some time.

We only need to look at Sunday's Washington Post to remind us of the dangers of driving on the Capital Beltway.

Again this morning, our commuters and commerce suffered extensive delays on the Capital Beltway when a tractor-trailer accident at the Cabin John Bridge closed a large segment of the beltway for hours.

As a result of this gridlock, commuters cannot get to work and interstate commerce is delayed. That translates into reduced productivity and wasted resources for all Americans.

The legislation we are introducing today also includes modest provisions to provide uniformity and flexibility to States as they continue to implement ISTEA.

As States enter the fourth year of ISTEA and we have sufficient information and experience to support these modifications.

As we move this legislation forward, my focus will be to reduce mandates on our States, without jeopardizing the safety of the traveling public, and to increase flexibility for States to allocate funds to meet their own needs.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995—SECTION BY SECTION ANALYSIS

Sec. 1: Short Title.

Sec. 2:

Section 2 approves the most recent National Highway System submitted to Congress by the Secretary of Transportation. The section also specifies the procedure for future changes and modifications to the NHS after Congress has adopted the initial system. At the request of a State, the Secretary may add a new route segment to the NHS or delete an existing route segment and any connection to the route segment, as long as the segment or connection is within the jurisdiction of the requesting State and the total mileage of the NHS (including any route segment or connection proposed to be added) does not exceed 165,000 miles.

If a State requests a modification to the NHS as adopted by Congress, the State must establish that each change in a route segment or connection has been identified by the State in cooperation with local officials. This cooperative process between the State and local officials will be carried out under the existing transportation planning activities for metropolitan areas and the statewide planning processes established under ISTEA.

Congress will not approve or disapprove any subsequent modifications made to the NHS. The cooperative planning process between State and local officials, along with the approval of the Secretary, is the appropriate forum for considering modifications to the NHS following enactment of this legislation.

Sec. 3:

Section 3 amends section 103(i) of title 23 to permit States to use National Highway System and Congestion Mitigation and Air Quality funds for operational expenses of Intelligent Vehicle Highways System (IVHS) projects for an unlimited period of time rather than the two years currently stipulated.

Sec. 4:

Section 4 amends section 104 of title 23 to permit a State to transfer 60 percent of its bridge apportionments to its National Highway System or Surface Transportation Program categories.

Sec. 5:

Section 5 amends section 129(a)(5) of title 23 to provide that the Federal share for participation in toll highways, bridges, and tunnels shall be a percentage as determined by the State but not to exceed 80 percent. Depending on the facility, the federal share currently ranges from 50 to 80 percent.

Sec. 6:

Section 6 amends 217(f) of title 23 to permit states to apply the federal lands sliding scale match to bicycle and pedestrian projects.

Sec. 7:

Section 7 amends section 323 of title 23 to allow private funds, materials and services to be donated to an activity eligible under title 23 and permits a state to apply 100 percent of such donated funds, materials or services to the State's matching share under title 23.

Sec. 8:

Section 8 states that notwithstanding any requirements of the Metric Conversion Act of 1975, no state is required to erect signs which establish speed limits, distance or other measurements using the metric system. If a state chooses to use its federal-aid highway funds for such a purpose, it may do so.

Sec. 9:

Section 9 requires states to receive U.S. Department of Transportation approval for Intelligent Vehicle Highway System (IVHS) projects within two years of receiving funds for this purpose. If after two years the Secretary has not approved a plan, the DOT may redirect unobligated funds to another IVHS project. Prior to such redirection, the Secretary shall notify the intended recipient that they are in danger of losing their funds.●

● Mr. CHAFEE. Mr. President, I am pleased to join Senator WARNER in introducing legislation today that will approve the designation of the National Highway System.

As my colleagues will remember, the Environment and Public Works Committee fashioned what I believe is a landmark surface transportation bill now known as the Intermodal Surface Transportation Efficiency Act of 1991 or ISTEA. The purpose of this surface transportation law is to provide mobility for all our citizens, to enable our country to be competitive internationally, to promote economic development, and to provide transportation facilities that are sensitive to the environment and the communities they pass through.

The National Highway System, established by the surface transportation law, is an important part of our country's National Transportation System.

The National Highway System, which includes the Interstate System represents 4 percent of the highway system but carries 40 percent of the Nation's highway travel. Even more importantly, it connects intermodal and strategic facilities including our ports, airports, train stations, and military bases.

The U.S. Department of Transportation worked with the States and local governments to develop the National Highway System. In December of 1993 the Department transmitted the proposed System to Congress. Congress must approve the National Highway System by September 30 of this year, or States will not receive over $6 billion in highway funds.

The NHS legislation we are introducing today maintains the important principles that ISTEA established for the National Highway System.

First, it maintains the flexibility of the NHS so that the System can change as our transportation needs change. The legislation enables States, in consultation with local officials, and the Secretary of Transportation to add to and delete routes from the System.

Second, the amount of funding a State receives for the NHS program is not tied to the number of miles it has on the NHS System. There is no incentive to pad the System with a lot of miles in hopes of receiving more of the Federal money.

And third, the NHS funds retain their flexibility. States continue to have the ability to transfer NHS funds to other categories to target their highest priority needs.

In addition to the approval of the National Highway System, the legislation we are introducing today includes several other provisions that are in keeping with the principles of ISTEA to provide flexibility wherever possible.

Stability is very important in the Federal-aid highway program. States need the assurance of long-term funding to efficiently manage their transportation programs. As the NHS legislation makes its way through Congress this year, there may be a temptation to reopen the surface transportation law and debate items that are controversial. To disrupt this program and make significant changes in midstream will damage the transportation program. If we are to meet the September 30 deadline for approval of the National Highway System, contentious issues must be postponed until ISTEA is reauthorized in 1997.

I am pleased to join my colleagues in introducing the National Highway System bill and will work with them for its early approval.●

By Mr. MCCAIN:

S. 441. A bill to reauthorize appropriations for certain programs under the Indian Child Protection and Family Violence Prevention Act, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PROTECTION ACT

● Mr. MCCAIN. Mr. President, today I am introducing a bill to reauthorize Public Law 101–630, the Indian Child Protection and Family Violence Prevention Act. This bill will provide a 2-year reauthorization of appropriations pursuant to sections 409, 410, and 411 of the act. These sections are critical to Indian tribal governments in preventing and treating incidents of child abuse and family violence at the local level. Specifically, section 409 requires the Indian Health Service [IHS] and the Bureau of Indian Affairs [BIA] to cooperatively establish an Indian Child Abuse Treatment Grant Program, section 410 requires the BIA to establish Indian child resource and family services centers to provide technical assistance, training, and to develop policies and procedures on child abuse for Indian tribes, and section 411 requires the BIA to establish an Indian Child Protection and Family Violence Prevention Program.

Mr. President, the Indian Child Protection and Family Violence Prevention Act was enacted into law on November 28, 1990 to address concerns raised by the findings of the Senate Select Committee on Indian Affairs and the Special Committee on Investigations. What these committees found through public hearings was that Indian country was literally a safe haven for child abuse perpetrators to prey upon Indian children. I'm sure that many of my colleagues in the Congress will recall the notorious cases of multiple child sexual abuse that rose within the Hopi, Navajo, and Cherokee Indian reservations. These crimes were perpetrated over the course of many years, and in some cases, the crimes were perpetrated upon generations of families. The Federal investigation and prosecution of these crimes provided insight into the purposeful plan of the perpetrators in committing their crimes in Indian communities. Child abuse perpetrators were aware that the conditions of detecting, reporting, investigating, and preventing crimes upon children were in such a sorry state that there crimes would rarely be detected. As a result, hundreds of Indian children, their families, and communities needlessly suffered.

Both the Special Committee on Investigations and the Committee on Indian Affairs held numerous hours of testimony in which both tribal and Federal witnesses testified about the serious deficiencies in the Federal Government's efforts to assist tribal governments in preventing and treating child abuse and family violence. The hearings disclosed that the BIA's failure to implement effective background checks on potential employees having contact with children resulted in negligent hiring practices, and child abuse reporting procedures deterred employees from reporting suspected child abuse. Tribal witnesses testified that law enforcement and social services lacked coordinated approaches to address child victimization. As a result, victims were often further traumatized by repeated interviews by physicians, social workers, investigators, and prosecutors. The hearings also revealed that due to scare resources, tribal social workers and mental health professional experienced case loads exceeding national standards. It also became very clear that both the IHS and the BIA lacked the professional experience necessary to treat incidents of child sexual abuse.

The Indian Child Protection and Family Violence Prevention Act was intended to give the Federal Government an opportunity to meet it's responsibility to Indian children and families by establishing policies and programs which would prevent the tragedies of child abuse and family violence. To accomplish the goals of the act, appropriations were authorized per fiscal year from 1990 through 1995 to establish prevention and treatment programs within the BIA and IHS. The act also authorized the BIA and IHS to assist tribes in establishing on-reservation child abuse prevention and treatment programs. The act also created mandatory Federal child abuse reporting and prescribed a process by which child abuse allegations would be handled to prevent further trauma to a victim.

Mr. President, the implementation of this act has had positive results in Indian country. Indian tribal governments have initiated local public education programs on the prevention and detection of child abuse and domestic violence. However, these local efforts have been so successful that reports of child abuse and domestic violence incidents have increased substantially. Therefore, the need for funding for treatment of these victims has also substantially increased. Last Congress, the Committee on Indian Affairs received testimony from tribal governments which documented these needs, and which called for more vigorous implementation of the act by the Federal agencies.

Finally, I believe that the possible benefits of the act have not been fully realized. Neither the BIA nor the IHS have successfully requested or received appropriations to fully implement the programs that are so critical to the protection of vulnerable Indian children and families. As a result, Indian tribal governments that are in desperate need of these services have had to rely on special appropriations and congressional earmarks to fund their efforts. Those tribes that are unable to obtain earmarks must struggle to provide child abuse and family violence prevention and treatment services using existing resources and piecemeal grants.

Mr. President, I strongly believe that extending the authorization of appropriations for the Indian Child Protection and Family Violence Prevention Act will enable the Federal agencies and Indian tribal governments the opportunity to continue and enhance the work that has begun on behalf of Indian children and families.

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. 441

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

SECTION 1. REAUTHORIZATION OF PROGRAMS.

Sections 409(e), 410(h), and 411(i) of the Indian Child Protection and Family Violence prevention Act (25 U.S.C. 3208(e), 3209(h), and 3210(i), respectively) are each amended by striking "and 1995" and inserting "1995, 1996, and 1997".●

By Ms. SNOWE (for herself and Mr. DOLE):

S. 442. A bill to improve and strengthen the child support collection system, and for other purposes; to the Committee on Finance.

THE CHILD SUPPORT RESPONSIBILITY ACT OF 1995

● Ms. SNOWE. Mr. President, I am pleased to introduce, on behalf of myself and Senator DOLE, the Child Support Responsibility Act of 1995.

This bill improves upon existing child support enforcement mechanisms and establishes new enforcement systems where none currently are in place. Furthermore, it recognizes that the issue of child support enforcement goes far beyond parochial interests or state lines, that as a national problem for our children and their families, child support enforcement merits a national solution.

When two people, whether married or not, have a baby, they incur an obligation to provide for and care for their child. When parents live apart, the parent not living with, and providing day-to-day care for, the parent is expected to provide financial assistance for the child.

Consider the facts: millions of American single parents and children continue to suffer from the consequences of a parent who financially and emotionally abandons them. For mothers who have obtained a child support order—and more than 40 percent have not—only half of those actually receive what is owed—the other half receives partial payments or nothing. Never-married single parents have a particularly difficult time obtaining child support—1990 census data indicates that of all never-married custodial mothers, 75 percent did not have child support orders and more than 50 percent had household incomes below the poverty line. These statistics add up to significant economic and emotional burdens for single parents and their dependent children.

The Child Support Enforcement Program was first created in 1975 and significantly modified in 1984 and 1988. The program's purpose is to strengthen existing State and local efforts to locate noncustodial parents, to establish paternity for them, to obtain child support orders and collect child support payments. My proposed legislation, a companion to the House bill introduced by Congresswomen JOHNSON and ROUKEMA, would assist the Child Support Enforcement Program with each of these goals.

To strengthen efforts to locate parents, it expands the Federal parent locator system and provides for State-to-State access of the network. To increase paternity establishment, the bill simplifies paternity procedures, facilitates voluntary acknowledgment, and encourages outreach. To facilitate the setting of effective child support orders, it calls for the establishment of a National Child Support Guidelines Commission to develop a national child support guideline for consideration by Congress, and provides for a simplified process for review and adjustment of child support orders. And to facilitate child support enforcement and collection, the bill expands the penalties for child support delinquency to include the denial of professional, recreational, and driver's license to deadbeat parents, the imposition of liens on real property, and the automatic reporting of delinquency to credit unions. It also grants families who are owed child support the right of first access to an IRS refund credited to a deadbeat dad and permits the denial of a passport for individuals who are more than $5,000 or 24 months in arrears.

Other provisions include developing a national registry of child support orders, developing centralized State registries, and requiring States to adopt the Uniform Interstate Family Support Act, as approved by the National Conference of Commissioners on Uniform State Laws in August 1992.

Through the enactment of this child support legislation I would like to begin to ease, and eventually lift, the economic and emotional burdens caused by delinquent child support payments. Noncustodial parents must begin to accept and bear responsibility for their children, who will reap the support they so justly deserve and desperately need.●

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 444. A bill to amend the Alaska Native Claims Settlement Act to provide for the purchase of common stock of Cook Inlet region, and for other purposes; to the Committee on Energy and Natural Resources.

THE ALASKA NATIVE CLAIMS ACT AMENDMENT ACT OF 1995

● Mr. MURKOWSKI. Mr. President, I am pleased to introduce a bill to amend the Alaska Native Claims Act of 1971 at the request of Cook Inlet Region, Inc. [CIRI] to allow CIRI to purchase stock from their shareholders and retire the stock.

Congress enacted the Alaska Native Claims Settlement Act [ANCSA] in 1971 to address claims to lands in Alaska by the Eskimo, Indian, and Aleut Native people. Lands and other benefits transferred to Alaska Natives under the act were conveyed to corporations formed under this act. CIRI is one of the corporations formed under ANCSA and has approximately 6,262 Alaska Natives enrolled, each of whom were issued 100 shares of stock in CIRI, as required under ANCSA.

ANCSA stock, unlike most corporate stock, cannot be sold, transferred, or pledged by the owners of the shares. Rather, transfers can only happen through inheritance, or in limited case, by court decree.

To date, no Native corporation has sought to lift the restriction. For the most part, this is because Native shareholders continue to value Native ownership of the corporations and Native control of the lands and other assets held by them. These shareholders, whose numbers consistently register at the 70- 80-percent level, see economic benefits in the continuation of Native ownership, and also value the important cultural goals, values, and activities of their ANCSA corporation. However, a minority of shareholders favor assessing some or all of the value of their CIRI stock through the sale of that stock. These shareholders include, but are not limited to, elderly shareholders who have real current need yet doubt that sale of stock will be available to them in their lifetime; holder of small, fractional shares received through one or more cycles of inheritance; non-Natives who have acquired stock through inheritance but without attendant voting privileges; and shareholders who have few ties to the corporation or to Alaska, 25 percent of CIRI shareholders live outside of Alaska.

Under current law, these two legitimate but conflicting concerns cannot be addressed, because lifting restrictions on the sale of stock in an all or nothing proposition. In order to allow the minority of shareholders to exercise their desire to sell some or all of their stock, the majority of shareholders would have to sacrifice their important desire to maintain Native control and ownership of CIRI.

CIRI believes this conflict will eventually leave the interests of the majority of its shareholders vulnerable to political instability. In addition, CIRI recognizes that responding to the desire of those shareholders who wish to sell CIRI stock is a legitimate corporate responsibility. CIRI believes there is a way to address the needs and desires of both groups of shareholders, those who wish to sell stock and those who desire to maintain their Native ownership. The method embodied in this legislation is one that other companies routinely use, buying back of its own stock. The acquired stock would then be retired.

Mr. President, I have discussed this bill at length with CIRI and I am convinced this is the best solution. This bill is identical to one that passed the House, and was approved by the Senate Energy Committee last session, and I look forward to its passage.●

By Mr. D'AMATO (for himself, Mr. MACK, Mr. BENNETT, Mr. FAIRCLOTH, and Mr. BRYAN):

S. 445. A bill to expand credit availability by lifting the growth cap on limited service financial institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE LIMITED-PURPOSE BANK GROWTH CAP RELIEF ACT

● Mr. D'AMATO. Mr. President, I am today introducing the Limited-Purpose Bank Growth Cap Relief Act with Senators MACK, BENNETT, FAIRCLOTH, and BRYAN as cosponsors.

Mr. President, this bill would lift the 7-percent cap on the annual asset growth of limited-purpose banks. This growth cap, which was imposed temporary under the 1987 Competitive Equality Banking Act [CEBA], imposes an arbitrary and unnecessary regulatory burden. The removal of this cap would enhance the ability of limited-purpose banks to serve their customers, increase the availability of credit, and allow such banks to maintain assets on their balance sheets.

By way of background, the ownership of limited-purpose banks by certain non-banking holding companies was protected by a grandfather provision in CEBA. A grandfathered non-bank holding company was permitted to maintain its ownership of limited-purpose bank if the bank, first, did not both accept demand deposits and engage in commercial lending; second, limited its cross-marketing of financial services with affiliates; third, did not participate in activities in which the bank did not already engage prior to the passage of CEBA; fourth, did not provide daylight overdrafts to affiliates; and fifth, limited its annual asset growth to 7 percent. Except for these restrictions, limited-purpose banks were subjected to the same capital requirements, regulatory supervision, community reinvestment obligations, consumer protection laws and banking laws as full-service banks.

Mr. President, Congress intended these CEBA restrictions on limited-purpose banks to be only a temporary measure coexistent with the moratorium on the ability of the bank regulators to permit banks to engage in additional securities, insurance and real estate activities. The legislative history is clear that these restrictions would be reconsidered as part of comprehensive banking legislation. The overall purpose of CEBA was merely to preserve the opportunity for Congress—not the regulators or the courts—to define more precisely regulatory supervision over financial service institutions and competition among financial service providers.

Mr. President, Congress has not enacted comprehensive banking legislation, although I am hopeful this important national policy objective can be accomplished in this Congress with the enactment of S. 337, the Depository Institution Affiliation Act of 1995, which I introduced on February 2. Despite the significant changes in the laws and regulation governing the financial services industry over the past 8 years that have enhanced the diversification opportunities of banks, securities firms, insurance companies and other financial providers, the temporary and arbitrary restrictions CEBA imposed on limited purpose banks remain in place.

The number of limited-purpose banks has sharply dropped from nearly 160 to only 23. And the remaining institutions are forced to labor under severe restrictions that cannot be justified from a regulatory, public policy, or competitive standpoint.

Mr. President, limited service banks have been frozen in time. Congress has enacted numerous laws to render full-service banks more competitive, efficient and financially strong. The growth cap is no longer necessary from a regulatory perspective. In 1989 and 1991, Congress enacted legislation to increase the ability of regulators to ensure that all banks are run in a safe and sound manner, including the authority to freeze bank asset growth if capital levels decline significantly. And the restriction is not necessary from a competitive standpoint. The 103d Congress enacted interstate banking legislation. Finally, bank regulators and the courts continue to approve a growing list of securities, insurance, and other financial services activities for banks.

Mr. President, only a small category of specialized and limited purpose banks remain subject to onerous limitations on their growth, activities, products, and customer relationships. This situation is both unfair and unnecessary.

Mr. President, the Limited-Purpose Bank Growth Cap Relief Act would lift the 7-percent asset growth cap for limited-purpose banks. It would not remove any of the other CEBA restrictions and it would not allow the chartering of additional limited-purpose banks from a statutory requirements that has outlived its usefulness.

Mr. President, the repeal of the growth cap is entirely consistent with the objectives of the Depository Institutions Affiliation Act, which I introduced several weeks ago. Both bills seek to enhance the global competitiveness of the U.S. financial services industry and to ready the regulation of that industry for the next century.●

● Mr. BRYAN. Mr. President, today I am introducing legislation which repeals a restriction on the ability of limited-purpose banks to increase their assets by more than 7 percent per year. I believe that a removal of this restriction will promote increased credit availability, and will enhance the safety and soundness of the 22 institutions that are subject to the growth limitation.

This asset growth limitation was adopted in 1987, in legislation which stated that the restriction was being imposed temporarily. It remains in place nearly 8 years later, although the objectives it was intended to accomplish have been achieved by subsequent legislation, regulatory act on and judicial decisions. For example, supporters of this limitation said that it would help offset full-service banks' inability to establish interstate branches, an issue that has now been addressed.

Today, the growth restriction is not needed to protect the banks, their customers, or competitors. To the contrary, the growth cap harms these banks, by imposing enormous and unnecessary compliance costs and by forcing them to dispose of assets despite adverse marketplace conditions and negative safety and soundness implications. It hurts their depositors and borrowers—and other consumers—by reducing limited-purpose banks' ability to offer competitive banking services. And it provides no legitimate benefit to full service banks, whose ability to compete will not be impaired if a small number of limited-purpose banks are permitted to grow assets on their balance sheets rather than outside of the banks.

The legislation I am introducing addresses only one of the restrictions on limited-purpose banks: The 7-percent asset growth cap. These banks will continue to be subject to the same requirements as other banks, including the provision enacted in 1991 requiring the asset growth of any undercapitalized institution to be curtailed. And they will remain subject to additional restrictions unique to limited-purpose institutions, such as a limitation on engaging in new banking activities, and a restrictions on cross marketing with affiliates. The need to retain these restrictions is an issue that should be addressed in the near future, as we consider broader legislation addressing bank ownership, affiliations and permissible powers. But the asset growth restriction is a regulatory burden unrelated to these issues, and needs to be addressed now.

In the last Congress, a number of my colleagues on both sides of the aisle supported the removal of the 7-percent growth cap. I am especially pleased that the distinguished chairman of the Committee on Banking, Housing, and Urban Affairs and others are joining me today as original cosponsors of their bill. I look forward to prompt action on this legislation.●

By Mr. INOUYE (for himself, Mr. HATFIELD, Mr. LEVIN, Mr. D'AMATO, Mr. AKAKA, Mr. COCHRAN, Mr. DODD, Mr. GRASSLEY, Mr. HATCH, Mr. HEFLIN, Mr. HOLLINGS, Mr. KENNEDY, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. ROBB, and Mr. SIMON):

S. 446. A bill to require the Secretary of the Treasury to mint coins in commemoration of the public opening of the Franklin Delano Roosevelt Memorial in Washington, DC; to the Committee on Banking, Housing, and Urban Affairs.

THE FRANKLIN DELANO ROOSEVELT COMMEMORATIVE COIN ACT

● Mr. INOUYE. Mr. President, today, I introduce the Franklin Delano Roosevelt Commemorative Coin Act. I am joined by Senator HATFIELD, Cochair of the FDR Memorial Commission, Senators LEVIN and D'AMATO, FDR Memorial Commissioners, and Senators AKAKA, COCHRAN, DODD, GRASSLEY, HATCH, HEFLIN, HOLLINGS, KENNEDY, MIKULSKI, MOYNIHAN, ROBB, and SIMON.

The Franklin Delano Roosevelt Commemorative Coin Act authorizes the Secretary of the Treasury to mint 500,000 half dollar silver coins bearing the likeness of our great leader, President Franklin Delano Roosevelt, in the year 1997, to celebrate the public opening of the Franklin Delano Roosevelt Memorial in Washington, DC.

A surcharge of $3 will be applied to each coin. Proceeds from the sale of the coin will be used to finance the construction of the memorial. In 1992, the Congress mandated the FDR Memorial Commission to raise $10 million in private funds to supplement the Federal appropriations for the memorial.

The American people are deeply indebted to Franklin Delano Roosevelt for his leadership in America's struggle for peace, well-being, and the assurance of human dignity. Personally, I will never forget the pride I felt in looking to President Roosevelt as my Commander in Chief as he led us in the worldwide struggle for freedom during World War II.

All Americans enjoy more secure lives and a higher standard of living because of this great President. The Civilian Conservation Corps helped restore America's forests and land; the National Rural Electric Cooperative gave farmers a decent life; the Federal Highway Program developed a national system upon which the automobile and the trucking industries depend; the Works Progress Administration built schools and hospitals throughout the country and every American who receives Social Security owes a debt of gratitude to President Roosevelt.

The commemorative coin will do more than honor one of our greatest Americans; it will also help ensure that an extraordinary era of our Nation's history will live on as a legacy for future generations. I want to assure my colleagues that this bill will not place any burden on the American taxpayer. The profits generated by the sale of this coin will cover all costs incurred by the Department of the Treasury.

I urge my colleagues to support this important legislation which will honor one of America's greatest Presidents by establishing a magnificent and historic national memorial in our Nation's Capital.

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. 446

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 "1997 Franklin Delano Roosevelt Commemorative Coin Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the people of the United States feel a deep debt of gratitude to Franklin Delano Roosevelt for his leadership in America's struggle for peace, well-being, and human dignity;

(2) Franklin Delano Roosevelt served his country as the thirty-second President from 1932 until his death in 1945, and is the only United States President elected to 4 terms in office;

(3) Franklin Delano Roosevelt served the State of New York as Governor from 1928 through 1932;

(4) Franklin Delano Roosevelt served his country as the United States Assistant Secretary of the Navy from 1913 through 1920;

(5) Franklin Delano Roosevelt piloted the American people through the economic chaos of the Great Depression;

(6) Franklin Delano Roosevelt, as our commander in chief, led the American people through the turmoil of World War II;

(7) Franklin Delano Roosevelt established Social Security, thus providing all Americans with a more abundant and secure life;

(8) Franklin Delano Roosevelt was the author of "The Four Freedoms: Freedom of Speech, Freedom of Worship, Freedom from Want, and Freedom from Fear";

(9) Franklin Delano Roosevelt was the founder of the National Foundation for Infantile Paralysis, parent organization of the March of Dimes;

(10) Franklin Delano Roosevelt was the chief architect of the United Nations;

(11) after many years of planning, the Franklin Delano Roosevelt Memorial will soon join the memorials of Washington, Jefferson, and Lincoln as a tribute to another great American leader;

(12) the Franklin Delano Roosevelt Memorial will be a series of 4 large outdoor rooms encompassing over 7 acres, and will be situated between the Lincoln and Jefferson memorials in Washington, D.C.; and

(13) in 1997, the Nation will celebrate the public opening of this magnificent memorial, honoring one of our greatest Presidents.

SEC. 3. COIN SPECIFICATIONS.

(a) HALF DOLLAR SILVER COINS.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue not more than 500,000 half dollar coins, each of which shall—

(1) weigh 12.50 grams;

(2) have a diameter of 30.61 millimeters; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 4. SOURCES OF BULLION.

The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

SEC. 5. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The obverse side of each coin minted under this Act shall bear a likeness of Franklin Delano Roosevelt, the thirty-second President of the United States. The reverse side of each coin shall be emblematic of the Franklin Delano Roosevelt Memorial in Washington, D.C.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "1997"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Franklin Delano Roosevelt Memorial Commission and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

(c) ADDITIONS AND ALTERATIONS.—No addition or alteration to the design selected in accordance with subsection (b) shall be made without the approval of the Franklin Delano Roosevelt Memorial Commission.

SEC. 6. ISSUANCE OF COINS.

(a) QUALITY AND MINT FACILITY.—The coins authorized under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States Bullion Depository at West Point.

(b) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the period beginning on January 1, 1997, and ending on December 31, 1997.

SEC. 7. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales shall include a surcharge of $3 per coin.

SEC. 8. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 9. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—All surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary as follows:

(1) An amount equal to 50 percent of the total surcharges shall be paid to the National Park Foundation Restricted Account for the Franklin Delano Roosevelt Memorial.

(2) An amount equal to 50 percent of the total surcharges shall be paid to the National Park Service Restricted Construction Account for the Franklin Delano Roosevelt Memorial.

(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the accounts referred to in subsection (a) as may be related to the expenditures of amounts paid under such subsection.

SEC. 10. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.●

By Mr. INHOFE (for himself and Mr. NICKLES):

S. 447. A bill to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes; to the Committee on Finance.

THE DOMESTIC OIL AND GAS PRODUCTION TAX INCENTIVES ACT

● Mr. INHOFE. Mr. President, I introduce legislation that is designed to help the domestic oil and gas industry not only in my own State of Oklahoma, but also the multitude of energy producing States throughout the United States. We are all very much aware that a healthy and competitive oil and gas industry is critically important to the U.S. economy. The petroleum industry alone is burdened with the highest tax rates in corporate America. Changes fostered by this bill only level the playing field with businesses throughout the United States that are trying to attract capital.

Through tax incentives for new and existing marginal wells, small producers in Oklahoma, as well as throughout the United States, will be the primary benefactors of my legislation. Independents find more than half of all new oil and natural gas reserves, and they drill almost 85 percent of all domestic wells—both exploratory and development—onshore and offshore.

The U.S. oil and gas industry is one of the Nation's major economic assets and has long been recognized as a world leader in size, scope, and technology. As such a vital national industry, we cannot afford to continue down the road we have become accustomed to for so long. We need to focus our energies inward and try to help the industry restimulate its growth. As a nation we must face up to the threat posed by mounting U.S. dependency on foreign energy imports from such regions as the Middle East.●

By Mr. GRASSLEY (for himself, Mr. PRYOR and Mr. REID):

S. 448. A bill to amend sections 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction, and for other purposes, to the Committee on Finance.

THE CONTRIBUTIONS ON AID OF CONSTRUCTION LEGISLATION

• Mr. GRASSLEY. Mr. President, today I am here to reintroduce revenue neutral legislation to reinstate the exclusion from gross income of contributions in aid of construction—known as CIAC—to a water or wastewater utility. Joining me as cosponsors are Senators PRYOR and REID. Senator REID has taken the lead on this issue for a number of years.

This legislation has passed as an amendment in the Senate on two occasions. It is my hope that this year we will finally be successful in passing this legislation and having the President sign it into law.

Utilities are capital-incentive industries. Historically, they have received the capital for the construction of a utility extension directly from new customers, either through the developer or small municipality. The customer contributes this property, or a cash equivalent, to the utility. In this manner, existing customers will not face rate increases every time the utility gains new customers.

Prior to enactment of the Tax Reform Act of 1986, CIAC were not included in the gross income of an investor-owned utility and therefore were not subject to Federal income tax. In addition, utilities could not take tax depreciation or investment tax credits on CIAC. The 1986 act repealed section 118(b) of the Internal Revenue Code and thus subjected CIAC to tax as gross income. As we all remember, the 1986 act had two basic premises as its core. One, the tax base would be broadened and rates would be lowered. Two, cuts in individual rates would be offset by increases in the corporate tax burden. Clearly the authors of the 1986 act intended to ensure that the burden of corporate taxes was spread to all industries including utilities.

The removal of the exclusion from gross income of CIAC was intended as a tax on utilities. In practice, the CIAC tax is not a tax on utilities, but a tax on utility customers, primarily on developers and home buyers. State utility regulatory bodies, referred to as PUC's, generally require utilities to pass tax costs onto their customers. This is done in one of two ways. The most common approach is to require the new customer to pay the cost of the tax. But this is not a simple dollar-for-dollar charge. In order for utility to be made whole, it must pay on the CIAC, plus a tax on the tax. The phenomenon is known as gross-up. Depending on the State, a gross-up can add as much as 70 percent to the customer's cost of the contributions. In other words, a contribution of water mains valued at $100,000 would cost a customer $170,000.

Alternatively, the PUC's may allow the utility to recover the tax cost from existing customers or over a period of time from the new ratepayers. Not only does this defeat the purpose of a contribution, it also means a rate increase. And with many water utilities seeking rate increases of as much as 25 percent in order to pay for Safe Drinking Water Act requirements, additional rate increases can lead to calls for condemnation.

Whichever method is chosen, utilities do not pay the tax, they pass it on. Passing the tax on has detrimental effects, not only on the utility's ability to bring in new business, but on the environment, and most significantly, on the price of new housing.

Any developer faced with a large gross-up will have to evaluate its effect on the bottom line. Depending on conditions in the local housing market, a developer will ultimately pass the cost of the CIAC and the gross-up on to the new home buyer. The National Association of Home Builders has estimated that the CIAC tax can increase the cost of new housing by as much as $2,000 a unit. This additional cost is enough to end the dream of home ownership for a young couple.

The CIAC tax also has some important environmental effects. New customers can avoid paying the CIAC tax by building their own independent water systems. This leads to a proliferation of systems that may not have the financial, technical, or managerial ability to comply with the rigorous requirements of the Safe Drinking Water Act. Such systems are referred to as nonviable. According to the EPA, in fiscal year 1990, more than 90 percent of the violations of the Safe Drinking Water Act were made by systems serving less than 3,300 individuals. By encouraging the proliferation of nonviable systems, the CIAC tax frustrates the environmental policy goal of consolidating these systems into already existing, professionally managed systems.

Mr. President, section 118(b) of the Internal Revenue Code, exempting CIAC from the gross income, should be restored. It is a tax on capital, not income. It is not a tax on utilities, it is a tax on their customers. The CIAC tax increases the price of new homes, leads to the development of environmentally unsound water and sewage facilities, and reduces the tax base for all levels of government.

Most important in my opinion, elimination of the CIAC tax will help home buyers, not by fueling real estate speculation, but by removing another barrier to the purchase of a new home. Anyone who has bought a house recently knows you don't just pay the price of the house. You pay closing costs, title costs, title insurance fees, attorney's fees, and points. And when you buy a house hooked up to privately owned utilities, you also pay the CIAC tax—as much as $2,000 per unit.

This legislation was most recently estimated to cost $106 million over 5 years. I have included a revenue offset in the bill as introduced that raises $140 million over the same period, thus netting $34 million for the Federal Government. The offset extends depreciation on new water utility plant from 20 to 25 years and switches from 150 percent declining balance to straight-line depreciation. This offset was suggested by the investor-owned water industry and is indivisible from the substance of the legislation which is the restoration of the exclusion of CIAC from gross income. The industry suggested it only for the purpose of repealing the CIAC tax, and that is its only intended use.

Mr. President, repeal of the tax on CIAC for water and wastewater utilities will have a noticeable effect on both housing prices and environmental policy. It is supported by the National Association of Water Companies, the National Association of Regulatory Utility Commissioners, and the National Association of Home Builders. I urge my colleagues to cosponsor this important legislation.

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. 448

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

SECTION 1. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.—

(1) IN GENERAL.—Section 118 of the Internal Revenue Code of 1986 (relating to contributions to the capital of a corporation) is amended—

(A) by redesignating subsection (c) as subsection (e), and

(B) by inserting after subsection (b) the following new subsections:

"(c) SPECIAL RULES FOR WATER AND SEWAGE DISPOSAL UTILITIES.—

"(1) GENERAL RULE.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal service if—

"(A) such amount is a contribution in aid of construction,

"(B) in the case of contribution of property other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

"(C) such amount (or any property acquired or constructed with such amount) is not included in the taxpayer's rate base for ratemaking purposes.

"(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

"(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

"(i) which is the property for which the contribution was made or is of the same type as such property, and

"(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

"(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

"(C) accurate records are kept of the amounts contributed and expenditures made, the expenditures to which contributions are allocated, and the year in which the contributions and expenditures are received and made.

"(3) DEFINITIONS.—For purpose of this subsection—

"(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as service charges for starting or stopping services.

"(B) PREDOMINANTLY.—The term 'predominantly' means 80 percent or more.

"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

"(4) DISALLOWANCE OF DEDUCTIONS AND INVESTMENT CREDIT; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

"(d) STATUTE OF LIMITATIONS.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (c), then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

"(A) the amount of the expenditure referred to in subparagraph (A) of subsection (c)(2),

"(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

"(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (c)(2); and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(2) CONFORMING AMENDMENT.—Section 118(b) of such Code is amended by inserting "except as provided in subsection (c)," before "the term".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received after the date of the enactment of this Act.

(b) RECOVERY METHOD AND PERIOD FOR WATER UTILITY PROPERTY.—

(1) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

"(F) Water utility property described in subsection (e)(5)."

(2) 25-YEAR RECOVERY PERIOD.—The table contained in section 168(c)(1) of such Code is amended by inserting the following item after the item relating to 20-year property:

"Water utility property .... 25 years".

(3) WATER UTILITY PROPERTY.—

(A) IN GENERAL.—Section 168(e) of such Code is amended by adding at the end the following new paragraph:

"(5) WATER UTILITY PROPERTY.—The term 'water utility property' means property—

"(A) which is an integral part of the gathering, treatment, or commercial distribution of water, and

"(B) which, without regard to this paragraph, would be 20-year property."

(B) CONFORMING AMENDMENT.—Subparagraph (F) of section 168(e)(3) of such Code is amended by adding at the end the following new sentence: "Such term does not include water utility property."

(4) ALTERNATIVE SYSTEM.—Clause (iv) of section 168(g)(2)(C) of such Code is amended by inserting ", water utility property," and "grading".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act, other than property placed in service pursuant to a binding contract in effect on such date and at all times thereafter before the property is placed in service.•

By Mr. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. 449. A bill to establish the Midewin National Tallgrass Prairie in the State of Illinois, and for other purposes; to the Committee on Armed Services.

ILLINOIS LAND CONSERVATION ACT

• Mr. SIMON. Mr. President, I rise today to introduce a most unique piece of legislation—the Illinois Land Conservation Act. This bill is the result of a broad-based, bipartisan consensus involving Federal, State, county and municipal concerns. It is a model for the land reuse challenges faced by so many communities throughout the country who are impacted by military base closures. I believe this to be one of the most significant conservation and economic development efforts ever attempted.

The closing of the Joliet Army Ammunition Plant in northeastern Illinois has provided a once-in-a-lifetime opportunity to recapture and preserve the tallgrass prairie that once covered most of the Prairie State.

The Illinois Land Conservation Act will create the Midewin National Tallgrass Prairie. The term "Midewin" commemorates the grant medicine society of the Potawatoni Indian Tribe—the original inhabitants of this area of Illinois. This prairie will comprise 19,000 acres of land, which is home to 16 State endangered and threatened species, all within an easy drive of metropolitan Chicago.

A 910-acre tract adjacent to the Midewin Prairie will become our county's largest national veterans' cemetery. Under the auspices of the Department of Veterans Affairs, this long-awaited site will provide a dignified place of rest for the many veterans in this region who sacrificed so much for our country.

The remaining acreage will be developed as an industrial park and a county landfill by the local communities.

Mr. President, the impact of the Joliet Arsenal closing has been profound on the entire region—particularly the small communities. The municipalities surrounding the arsenal have sustained the military presence here for the last 50 years, with several generations of families involve in the important work of defending our freedom. The Illinois Land Conservation Act is our opportunity to provide a true peace dividend to those who have supported this vital facility over the years.

I hope all my colleagues will support this innovative effort that recaptures an important part of our past, and addresses our needs for the future.•

• Ms. MOSELEY-BRAUN. Mr. President, I am pleased to join the distinguished senior Senator from Illinois, Senator SIMON, in introducing the Illinois Land Conservation Act of 1995.

This bill transfers land from the former Joliet Army Ammunition Plant to the Forest Service in order to establish a national grasslands. This bill also turns over land to the Veterans Administration for a new national veterans cemetery, and converts a number of former munitions production areas at the arsenal to local purposes.

Illinois is known as the Prairie State. This name commemorates a younger Illinois, a region of rolling prairies, seas of butterflies, grazing wildlife, and pioneers seeking out new lands to settle. At one time, more than 43,000 square miles of prairie existed in Illinois.

Over the course of 175 years, however, development has crept over these open lands. Farms, highways, and cities have been built to such an extent that today, only 0.01 percent of original prairie is left. Little evidence remains of, in the words of Charles Chamberlain, the author of the Illinois State song, this "wilderness of prairies."

That is one reason why the bill we are introducing today is important, Mr. President—so important that it has attracted support from a broad, bipartisan array of Illinois groups, from industrialists to environmentalists, and from researchers to hunters.

The Illinois Land Conservation Act is more than just a bill to create a national veterans cemetery, although it will address critical needs long awaited by Chicago veterans. It is more than just a bill to create a conservation area, although it will establish the largest in northern Illinois.

The Illinois Land Conservation Act, once enacted, gives Illinois a rare opportunity to preserve one of the last remaining areas of natural prairie. It's a once-in-a-lifetime chance to set aside such a large, undeveloped tract of property for environmental and recreational purposes. In a sense, this bill helps to protect a slice of ecological history, and in doing so, creates a legacy for future generations of Illinoisans to study and enjoy.

In April 1993, the U.S. Army, after announcing its intentions to close the Joliet Arsenal, approached former Illinois Congressman George Sangmeister to develop a concept plan for reutilization of the property. Congressman Sangmeister formed a commission of 24 local and Federal representatives, who, after several years of detailed planning, countless meetings, and extensive negotiations, carefully formulated and unanimously adopted a land reuse plan. The Illinois Land Conservation Act is the culmination of the commission's work.

At the heart of this bill is the creation of a 19,000-acre national grasslands, to be known as the Midewin National Tallgrass Prairie.

Located approximately 60 miles southwest of the Chicago metropolitan area, the grasslands will be a recreational treasure for city residents, accessible to millions for outdoor activities such as camping, horseback riding, hunting, hiking, and environmental education.

The grasslands designation also will help to protect and improve upon what already is considered an ecological wonderland. Hundreds of types of plants and animals are found here, including plants indigenous to the area for more than 10,000 years, and many threatened and endangered species. Many future projects are under consideration for the grasslands, such as the restoration of wetlands and the reintroduction of bison.

Another cornerstone of this bill is the establishment of a 1,000-acre national veterans cemetery. Identified as the leading location by the Veterans Administration, this cemetery, proposed for the center of the arsenal property, will be a landscape rich in streams, marshes, and hardwood forests—a magnificent and tranquil setting for veterans. When complete, the cemetery will honor over 92,000 Chicago veterans through the year 2030.

Mr. President, the Illinois Land Conservation Act is based upon a plan that has been carefully crafted by key representatives of the local community who have worked closely with Federal agencies and the State of Illinois. It deserves to move forward quickly.

This bill is an excellent opportunity to establish a monument to the fertile soils which cultivated the agricultural and commercial prosperity Illinois enjoys today.

It's an excellent opportunity to create the first and the largest tallgrass prairie ecosystem east of the Mississippi River.

And, most importantly, this bill is the last opportunity of our lifetimes to preserve a largely untouched, expansive tract of ecologically unique land in the State of Illinois. In the words of the Chicago Tribune, this is our chance to "save Joliet Arsenal land for the ages." I agree, and urge the quick approval of this bill.•

By Mr. NICKLES (for himself, Mr. INHOFE, and Mr. DOLE):

S. 451. A bill to encourage production of oil and gas within the United States by providing tax incentives and easing regulatory burdens, and for other purposes; to the Committee on Finance.

THE DOMESTIC OIL AND GAS PRODUCTION AND PRESERVATION ACT

• Mr. NICKLES. Mr. President, today I am introducing The Domestic Oil and Gas Production and Preservation Act along with Senators INHOFE and DOLE. A companion bill is also being introduced in the House by Congressman LUCAS and the rest of the Oklahoma delegation. We are introducing this bill today in an effort to help revive our domestic oil and gas industry which plays such a vital role in our national security. If our domestic industry is to survive domestically, then Congress needs to act now to provide incentives and regulatory reforms to encourage production in America.

Since the early 1980's oil and gas extraction employment has been cut in half. Employment in the oil and gas industry has declined by 500,000 since 1984. Imports of crude oil products have increased by 200,000 barrels a day over the last year and the import dependency ratio now exceeds 50 percent. In December 1994, crude oil production dropped to 5 million barrels per day in the lower 48 States which is the lowest level since 1946. We must take action now to save domestic production not only for the sake of the oil and gas industry but for the sake of the national security of this Nation.

I understand that today the administration released an investigative report conducted under section 232 of the Trade Expansion Act of 1962 on the threat to national security from the rising tide of oil imports. I have not yet seen this report but previous Commerce Department reports have found that oil imports threaten the national security and they were conducted when our foreign oil dependence was much lower. The question now is not whether oil imports threaten national security; everyone agrees that is the case. The question now is what are we going to do about it.

To date, the Clinton administration has done nothing to encourage domestic production. In fact, in 1993, crude oil reserves continued to decline by 788 million barrels. Natural gas reserves fell by 2,600 Bcf to 162,415 Bcf. I have been asking the Secretary of Energy for 3 years now, what she intends to do to help preserve the domestic oil and gas industry. In the President's 1996 budget there is nothing to aid this industry. That is why I am introducing this bill today.

The Domestic Oil and Gas Production and Preservation Act is intended to do just what its name implies—encourage oil and gas production and preserve and revitalize the domestic oil and gas industry. This bill would accomplish these goals in several ways. In title 1, we provide for tax incentives. One of the cornerstone pieces of this legislation is a tax credit to preserve marginal production and to encourage new drilling. This provision would make it more economical to keep a marginal well producing during times of low prices and would provide incentives to producers not to shut in their marginal wells due to economics resulting in a permanent loss of the remaining unproduced reserves.

This legislation also includes a tax credit for production from new wells that have been drilled after June 1, 1995. This provision is meant to encourage domestic exploration which has fallen dramatically in recent years. During the early 1980's the average rig count was around 2,929. In 1994 the rig count averaged 775. This is less than one-third the average during the boom years of the 1980's. If domestic production does not increase, our reliance on imported oil will only continue to grow.

In addition to the tax credit, this bill provides for several depletion reforms. There are provisions to repeal the net income limitation for computing percentage depletion, exclude marginal production from the current 1,000 barrels per day limitation, repeal the property allocation rule for computing depletion, and freeze the percentage depletion rate at current marginal levels.

Until 1976, percentage depletion was designed to operate as risk-weighted depreciation for mineral properties. Since then, the multiple limitations on the availability of percentage depletion as an effective capital cost recovery provision has diminished our proven reserves. The time has come to revise U.S. energy depletion policy. The circumstances that prevail in today's crude oil market are precisely the opposite of those that led to change to the depletion deduction in 1976. The world crude oil market is now glutted with overproduction from Kuwait and unsold Iraqi supplies are threatening another oil market crash. When prices decline, many wells are lost forever and many other wells cannot be drilled.

Percentage depletion should be reformed so that more U.S. production qualifies. Ensuring an adequate depletion allowance can reverse the falling U.S. energy resource base. These reforms will encourage new technology investments, provide economic stimulus to a major U.S. industry and create new, high-quality jobs.

In addition to the tax credit and the percentage depletion reforms, this legislation provides that geological and geophysical expenditures shall be treated as deductible expenses, it expands the existing enhanced oil recovery tax credit and makes it AMT creditable, it provides an election for optional 5-year write-off of intangible drilling costs, and it increases the amount of intangible drilling costs that can be expended without being treated as a preference item for AMT purposes. All these provisions will help encourage continued production from marginal wells, thus saving a valuable national resource from being lost.

Title II of this legislation calls for several regulatory reforms. It has provisions that address the enormous and unnecessary financial responsibility provisions of the Oil Pollution Act of 1990 [OPA '90]. This bill clarifies that the definition of "navigable waters" under OPA '90 only applies to true "offshore facilities," not facilities onshore. It also changes the amount of financial responsibility required under OPA '90 from $150 to $35 million with discretion given to the Secretary to establish a higher amount (but not higher than $150 million) taking into account factors relevant to risks posed by a facility.

This legislation also addresses two oil and gas royalty issues. First, it establishes a 6-year statute of limitations on actions commenced by the United States for recovery of royalties due under an oil and gas lease on Federal lands unless a lessee has made a false or fraudulent statement with the intent to evade the payment of royalties due. This provision is intended to give some finality to the royalty collection process and require the government to be prompt and timely in their pursuit of any underpayment of royalties. Second, it provides the Secretary discretion to lower royalties on oil and gas leases on Federal lands. This is intended to be used to help marginal wells, when prices are low, from being shut in as uneconomical.

In addition to the aforementioned regulatory reforms, this bill addresses two critical areas of reform, private property rights and risk assessment. Private property rights are protected by the fifth amendment to the U.S. Constitution. Unfortunately, the Federal bureaucracy has increasingly used environmental laws to trample on these rights. Two of the worst offenders are the Endangered Species Act and the wetlands permitting program established by section 404 of the Clean Water Act. This legislation incorporates the provisions of a separate bill that I have introduced for the last 3 years entitled the Property Owners Bill of Rights. The provisions of this bill require a landowner's written consent before Federal agents could enter private property, guarantee a landowner's access to information gathered about their property, guarantee a landowner's right to dispute that information's accuracy, guarantee a landowner's right to appeal decisions made under endangered species or wetlands law, and guarantee that a landowner be compensated if federal actions under the Endangered Species Act or wetlands permitting program devalue their property by 33 percent or more.

The risk assessment provisions of this bill requires Federal agencies to use sound scientific data when risk criteria and benefits are determined. It also requires the agencies to make public the scientific basis for each risk criteria and full disclosure of all assumptions and uncertainties. It also provides for a petition process to require an agency to review an existing regulation to ensure that benefits exceed the costs.

Finally, title III of this bill abolishes the existing prohibitions against the export of domestic crude oil production. This provision would also help encourage production in the lower 48 States.

Together, the provisions of this bill provide much needed incentives and regulatory relief to an industry that is vital to our national security. The sooner the administration and Congress acknowledge the critical importance of the domestic oil and gas industry and stop burdening this industry with high taxes and regulatory obstacles, the sooner we can take the necessary actions to preserve and revitalize this important sector of our economy.●

By Mr. MOYNIHAN (for himself and Mr. DASCHLE) (by request):

S. 452. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for the middle class; to the Committee on Finance.

THE MIDDLE-CLASS BILL OF RIGHTS TAX RELIEF ACT OF 1995

Mr. MOYNIHAN. Mr. President, as ranking member of the Committee on Finance, I am today joining with the Democratic leader in introducing a bill, at the request of the administration, containing the statutory provisions that implement the middle-income tax cuts contained in the President's fiscal year 1996 budget submission. Secretary Rubin appeared before the Finance Committee last week to testify concerning these proposals.

By making statutory language available early in the legislative process, the administration has aided the process of Senate consideration of these provisions. This legislation also will serve to answer many of the questions that the public may have with respect to the President's tax proposals.

I want to thank the administration for providing this level of detail in so timely a fashion, and I look forward to working with them on these proposals in the coming months.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

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

S. 452

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Middle-Class Bill of Rights Tax Relief Act of 1995".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

TITLE I—MIDDLE CLASS TAX RELIEF

SEC. 101. CREDIT FOR FAMILIES WITH YOUNG CHILDREN.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. FAMILIES WITH YOUNG CHILDREN.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $300 multiplied by the number of eligible children of the taxpayer for the taxable year.

"(2) INCREASE IN CREDIT.—In the case of taxable years beginning after December 31, 1998, paragraph (1) shall be applied by substituting '$500' for '$300'.

"(b) LIMITATIONS.—

"(1) PHASE-OUT OF CREDIT.—

"(A) IN GENERAL.—The amount of the credit allowed under subsection (a) shall be reduced (but not below zero) by the amount determined under subparagraph (B).

"(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph equals the amount which bears the same ratio to the credit (determined without regard to this subsection) as—

"(i) the excess of—

"(I) the taxpayer's adjusted gross income for such taxable year, over

"(II) $60,000, bears to

"(ii) $15,000.

Any amount determined under this subparagraph which is not a multiple of $10 shall be rounded to the next lowest $10.

"(C) ADJUSTED GROSS INCOME.—For purposes of this paragraph, adjusted gross income of any taxpayer shall be increased by any amount excluded from gross income under section 911, 931, or 933.

"(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by subsection (a) for the taxable year (after the application of paragraph (1)) shall not exceed the excess (if any) of—

"(A) the taxpayer's regular tax liability for the taxable year reduced by the credits allowable against such tax under this subpart (other than this section) determined without regard to section 26, over

"(B) the sum of—

"(i) the taxpayer's tentative minimum tax for such taxable year, plus

"(ii) the credit allowed for the taxable year under section 32.

"(c) ELIGIBLE CHILD.—For purposes of this section, the term 'eligible child' means any child (as defined in section 151(c)(3)) of the taxpayer—

"(1) who has not attained age 13 as of the close of the calendar year in which the taxable year of the taxpayer begins,

"(2) who is a dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151 for such taxable year, and

"(3) whose TIN is included on the taxpayer's return for such taxable year.

"(d) INFLATION ADJUSTMENTS.—In the case of a taxable year beginning in a calendar year after 1999—

"(1) IN GENERAL.—The $500 and $60,000 amounts contained in subsections (a)(2) and (b)(2) shall each be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1998' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) INCREASE IN PHASEOUT RANGE.—If the amount applicable under subsection (a) for any taxable year exceeds $500, subsection (b)(2)(B) shall be applied by substituting an amount equal to 30 times such applicable amount for '$15,000'.

"(3) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.

"(e) SPECIAL RULES.—

"(1) AMOUNT OF CREDIT MAY BE DETERMINED UNDER TABLES.—The amount of the credit allowed by this section may be determined under tables prescribed by the Secretary.

"(2) CERTAIN OTHER RULES APPLY.—Rules similar to the rules of subsections (c)(1)(E) and (F), (d), and (e) of section 32 shall apply for purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Families with young children."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 102. DEDUCTION FOR HIGHER EDUCATION EXPENSES.

(a) DEDUCTION ALLOWED.— Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. HIGHER EDUCATION TUITION AND FEES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amount of qualified higher education expenses paid by the taxpayer during the taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—

"(A) IN GENERAL.—The amount allowed as a deduction under subparagraph (a) for any taxable year shall not exceed $10,000.

"(B) PHASE-IN.—In the case of taxable years beginning in 1996, 1997, or 1998, '$5,000' shall be substituted for '$10,000' in subparagraph (A).

"(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—The amount which would (but for this paragraph) be taken into account under paragraph (1) shall be reduced (but not below zero) by the amount determined under subparagraph (B).

"(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph equals the amount which bears the same ratio to the amount which would be so taken into account as—

"(i) the excess of—

"(I) the taxpayer's modified adjusted gross income for such taxable year, over

"(II) $70,000 ($100,000 in the case of a joint return), bears to

"(ii) $20,000.

"(C) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

"(i) without regard to this section and sections 911, 931, and 933, and

"(ii) after the application of sections 86, 135, 219 and 469.

For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(D) INFLATION ADJUSTMENTS.—

"(i) IN GENERAL.—In the case of a taxable year beginning after 1999, the $70,000 and $100,000 amounts described in subparagraph (B) shall each be increased by an amount equal to—

"(I) such dollar amounts, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1998' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) ROUNDING.—If any amount as adjusted under clause (i) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000.

"(c) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of this section—

"(1) QUALIFIED HIGHER EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees charged by an educational institution and required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

as an eligible student at an institution of higher education.

"(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term does not include expenses with respect to any course or other education involving sports, games, or hobbies, unless such expenses—

"(i) are part of a degree program, or

"(ii) are deductible under this chapter without regard to this section.

"(C) EXCEPTION FOR NONACADEMIC FEES.—Such term does not include any student activity fees, athletic fees, insurance expenses, or other expenses unrelated to a student's academic course of instruction.

"(D) ELIGIBLE STUDENT.—For purposes of subparagraph (A), the term 'eligible student' means a student who—

"(i) meets the requirements of section 484(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

"(ii)(I) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education, or

"(II) is enrolled in a course which enables the student to improve the student's job skills or to acquire new job skills.

"(E) IDENTIFICATION REQUIREMENT.—No deduction shall be allowed under subsection (a) to a taxpayer with respect to an eligible student unless the taxpayer includes the name, age, and taxpayer identification number of such eligible student on the return of tax for the taxable year.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution which—

"(A) is described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

"(B) is eligible to participate in programs under title IV of such Act.

"(d) SPECIAL RULES.—

"(1) NO DOUBLE BENEFIT.—

"(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for qualified higher education expenses with respect to which a deduction is allowable to the taxpayer under any other provision of this chapter unless the taxpayer irrevocably waives his right to the deduction of such expenses under such other provision.

"(B) DEPENDENTS.—No deduction shall be allowed under subsection (a) to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(C) SAVINGS BOND EXCLUSION.—A deduction shall be allowed under subsection (a) for qualified higher education expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135 for the taxable year.

"(2) LIMITATION ON TAXABLE YEAR OF DEDUCTION.—

"(A) IN GENERAL.—A deduction shall be allowed under subsection (a) for any taxable year only to the extent the qualified higher education expenses are in connection with enrollment at an institution of higher education during the taxable year.

"(B) CERTAIN PREPAYMENTS ALLOWED.—Subparagraph (A) shall not apply to qualified higher education expenses paid during a taxable year if such expenses are in connection with an academic term beginning during such taxable year or during the 1st 3 months of the next taxable year.

"(3) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS BENEFITS.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by the sum of the amounts received with respect to such individual for the taxable year as—

"(A) a qualified scholarship which under section 117 is not includable in gross income,

"(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or

"(C) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for educational expenses, or attributable to enrollment at an eligible educational institution, which is exempt from income taxation by any law of the United States.

"(4) NO DEDUCTION FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(5) NONRESIDENT ALIENS.—If the taxpayer is a nonresident alien individual for any portion of the taxable year, this section shall apply only if such individual is treated as a resident alien of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013.

"(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations requiring recordkeeping and information reporting."

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (15) the following new paragraph:

"(16) HIGHER EDUCATION TUITION AND FEES.—The deduction allowed by section 220."

(c) CONFORMING AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the item relating to section 220 and inserting:

"Sec. 220. Higher education tuition and fees.
"Sec. 221. Cross reference."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 1995.

TITLE II—PROVISIONS RELATING TO INDIVIDUAL RETIREMENT PLANS

Subtitle A—Retirement Savings Incentives

PART I—IRA DEDUCTION

SEC. 201. INCREASE IN INCOME LIMITATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 219(g)(3) is amended—

(1) by striking "$40,000" in clause (i) and inserting "$80,000", and

(2) by striking "$25,000" in clause (ii) and inserting "$50,000".

(b) PHASE-OUT OF LIMITATIONS.—Clause (ii) of section 219(g)(2)(A) is amended by striking "$10,000" and inserting "an amount equal to 10 times the dollar amount applicable for the taxable year under subsection (b)(1)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 202. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT AND INCOME LIMITATIONS.

(a) IN GENERAL.—Section 219 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1996, each dollar amount to which this subsection applies shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) DOLLAR AMOUNTS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) the $2,000 amounts under subsection (b)(1)(A) and (c), and

"(B) the applicable dollar amounts under subsection (g)(3)(B).

"(3) ROUNDING RULES.—

"(A) DEDUCTION AMOUNTS.—If any amount referred to in paragraph (2)(A) as adjusted under paragraph (1) is not a multiple of $500, such amount shall be rounded to the next lowest multiple of $500.

"(B) APPLICABLE DOLLAR AMOUNTS.—If any amount referred to in paragraph (2)(B) as adjusted under paragraph (1) is not a multiple of $5,000, such amount shall be rounded to the next lowest multiple of $5,000."

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 219(c)(2)(A) is amended to read as follows:

"(i) the sum of $250 and the dollar amount in effect for the taxable year under subsection (b)(1)(A), or".

(2) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(3) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(4) Subparagraph (A) of section 408(d)(5) is amended by striking "$2,250" and inserting "the dollar amount in effect for the taxable year under section 219(c)(2)(A)(i)".

(5) Section 408(j) is amended by striking "$2,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 203. COORDINATION OF IRA DEDUCTION LIMIT WITH ELECTIVE DEFERRAL LIMIT.

(a) IN GENERAL.—Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end the following new paragraph:

"(4) COORDINATION WITH ELECTIVE DEFERRAL LIMIT.—The amount determined under paragraph (1) or subsection (c)(2) with respect to any individual for any taxable year shall not exceed the excess (if any) of—

"(A) the limitation applicable for the taxable year under section 402(g)(1), over

"(B) the elective deferrals (as defined in section 402(g)(3)) of such individual for such taxable year."

(b) CONFORMING AMENDMENT.—Section 219(c) is amended by adding at the end the following new paragraph:

"(3) CROSS REFERENCE.—

"For reduction in paragraph (2) amount, see subsection (b)(4)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

PART II—NONDEDUCTIBLE TAX-FREE IRA'S

SEC. 211. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"SEC. 408A. SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) GENERAL RULE.—Except as provided in this chapter, a special individual retirement account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) SPECIAL INDIVIDUAL RETIREMENT ACCOUNT.—For purposes of this title, the term 'special individual retirement account' means an individual retirement plan which is designated at the time of establishment of the plan as a special individual retirement account.

"(c) TREATMENT OF CONTRIBUTIONS.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to a special individual retirement account.

"(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all special individual retirement accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

"(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year, over

"(B) the amount so allowed.

"(3) SPECIAL RULES FOR QUALIFIED TRANSFERS.—

"(A) IN GENERAL.—No rollover contribution may be made to a special individual retirement account unless it is a qualified transfer.

"(B) LIMIT NOT TO APPLY.—The limitation under paragraph (2) shall not apply to a qualified transfer to a special individual retirement account.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in this subsection, any amount paid or distributed out of a special individual retirement account shall not be included in the gross income of the distributee.

"(2) EXCEPTION FOR EARNINGS ON CONTRIBUTIONS HELD LESS THAN 5 YEARS.—

"(A) IN GENERAL.—Any amount distributed out of a special individual retirement account which consists of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution shall be included in the gross income of the distributee for the taxable year in which the distribution occurs.

"(B) ORDERING RULE.—

"(i) FIRST-IN, FIRST-OUT RULE.—Distributions from a special individual retirement account shall be treated as having been made—

"(I) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(II) then from other contributions (and earnings allocable thereto) in the order in which made.

"(ii) ALLOCATIONS BETWEEN CONTRIBUTIONS AND EARNINGS.—Any portion of a distribution allocated to a contribution (and earnings allocable thereto) shall be treated as allocated first to the earnings and then to the contribution.

"(iii) ALLOCATION OF EARNINGS.—Earnings shall be allocated to a contribution in such manner as the Secretary may by regulations prescribe.

"(iv) CONTRIBUTIONS IN SAME YEAR.—Except as provided in regulations, all contributions made during the same taxable year may be treated as 1 contribution for purposes of this subparagraph.

"(C) CROSS REFERENCE.—

"For additional tax for early withdrawal, see section 72(t).

"(3) QUALIFIED TRANSFER.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to any distribution which is transferred in a qualified transfer to another special individual retirement account.

"(B) CONTRIBUTION PERIOD.—For purposes of paragraph (2), the special individual retirement account to which any contributions are transferred shall be treated as having held such contributions during any period such contributions were held (or are treated as held under this subparagraph) by the special individual retirement account from which transferred.

"(4) SPECIAL RULES RELATING TO CERTAIN TRANSFERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a qualified transfer to a special individual retirement account from an individual retirement plan which is not a special individual retirement account—

"(i) there shall be included in gross income any amount which, but for the qualified transfer, would be includible in gross income, but

"(ii) section 72(t) shall not apply to such amount.

"(B) TIME FOR INCLUSION.—In the case of any qualified transfer which occurs before January 1, 1997, any amount includible in gross income under subparagraph (A) with respect to such contribution shall be includible ratably over the 4-taxable year period beginning in the taxable year in which the amount was paid or distributed out of the individual retirement plan.

"(e) QUALIFIED TRANSFER.—For purposes of this section

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer to a special individual retirement account from another such account or from an individual retirement plan but only if such transfer meets the requirements of section 408(d)(3).

"(2) LIMITATION.—A transfer otherwise described in paragraph (1) shall not be treated as a qualified transfer if the taxpayer's adjusted gross income for the taxable year of the transfer exceeds the sum of—

"(A) the applicable dollar amount, plus

"(B) the dollar amount applicable for the taxable year under section 219(g)(2)(A)(ii).

This paragraph shall not apply to a transfer from a special individual retirement account to another special individual retirement account.

"(3) DEFINITIONS.—For purposes of this subsection, the terms 'adjusted gross income' and 'applicable dollar amount' have the meanings given such terms by section 219(g)(3), except subparagraph (A)(ii) thereof shall be applied without regard to the phrase 'or the deduction allowable under this section'."

(b) EARLY WITHDRAWAL PENALTY.—Section 72(t) is amended by adding at the end the following new paragraph:

"(6) RULES RELATING TO SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.—In the case of a special individual retirement account under section 408A—

"(A) this subsection shall only apply to distributions out of such account which consist of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution, and

"(B) paragraph (2)(A)(i) shall not apply to any distribution described in subparagraph (A)."

(c) EXCESS CONTRIBUTIONS.—Section 4973(b) is amended by adding at the end the following new sentence: "For purposes of paragraphs (1)(B) and (2)(C), the amount allowable as a deduction under section 219 shall be computed without regard to section 408A."

(d) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. Special individual retirement accounts."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle B—Penalty-Free Distributions

SEC. 221. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES, TO PAY HIGHER EDUCATION OR FINANCIALLY DEVASTATING MEDICAL EXPENSES, OR BY THE UNEMPLOYED.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

"(D) DISTRIBUTIONS FROM CERTAIN PLANS FOR FIRST HOME PURCHASES OR EDUCATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan—

"(i) which are qualified first-time homebuyer distributions (as defined in paragraph (7)); or

"(ii) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (8)) of the taxpayer for the taxable year."

(b) FINANCIALLY DEVASTATING MEDICAL EXPENSES.—

(1) IN GENERAL.—Section 72(t)(3)(A) is amended by striking "(B),".

(2) CERTAIN LINEAL DESCENDANTS AND ANCESTORS TREATED AS DEPENDENTS AND LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.—Subparagraph (B) of section 72(t)(2) is amended by striking "medical care" and all that follows and inserting "medical care determined—

"(i) without regard to whether the employee itemizes deductions for such taxable year, and

"(ii) in the case of an individual retirement plan—

"(I) by treating such employee's dependents as including all children, grandchildren and ancestors of the employee or such employee's spouse and

"(II) by treating qualified long-term care services (as defined in paragraph (9)) as medical care for purposes of this subparagraph (B)."

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking "or (C)" and inserting ", (C) or (D)".

(c) DEFINITIONS.—Section 72(t), as amended by this Act, is amended by adding at the end the following new paragraphs:

"(7) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(D)(i)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual or the spouse, child (as defined in section 151(c)(3)), or grandchild of such individual.

"(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if—

"(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

"(II) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A).

In the case of an individual described in section 143(i)(1)(C) for any year, an ownership interest shall not include any interest under a contract of deed described in such section. An individual who loses an ownership interest in a principal residence incident to a divorce or legal separation is deemed for purposes of this subparagraph to have had no ownership interest in such principal residence within the period referred to in subparagraph (A)(II).

"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

"(8) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(ii)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse,

"(iii) a dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151, or

"(iv) the taxpayer's child (as defined in section 151(c)(3)) or grandchild, as an eligible student at an institution of higher education (as defined in paragraphs (1)(D) and (2) of section 220(c)).

"(B) EXCEPTIONS.—The term 'qualified higher education expenses' does not include expenses described in subparagraphs (B) and (C) of section 220(c)(1).

"(C) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135.

"(9) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of paragraph (2)(B)—

"(A) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, curing, mitigating, treating, preventive, therapeutic, and rehabilitative services, and maintenance and personal care services (whether performed in a residential or nonresidential setting) which—

"(i) are required by an individual during any period the individual is an incapacitated individual (as defined in subparagraph (B)),

"(ii) have as their primary purpose—

"(I) the provision of needed assistance with 1 or more activities of daily living (as defined in subparagraph (C)), or

"(II) protection from threats to health and safety due to severe cognitive impairment, and

"(iii) are provided pursuant to a continuing plan of care prescribed by a licensed professional (as defined in subparagraph (D)).

"(B) INCAPACITATED INDIVIDUAL.—The term 'incapacitated individual' means any individual who—

"(i) is unable to perform, without substantial assistance from another individual (including assistance involving cueing or substantial supervision), at least 2 activities of daily living as defined in subparagraph (C), or

"(ii) has severe cognitive impairment as defined by the Secretary in consultation with the Secretary of Health and Human Services.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless a licensed professional within the preceding 12-month period has certified that such individual meets such requirements.

"(C) ACTIVITIES OF DAILY LIVING.—Each of the following is an activity of daily living:

"(i) Eating.

"(ii) Toileting.

"(iii) Transferring.

"(iv) Bathing.

"(v) Dressing.

"(D) LICENSED PROFESSIONAL.—The term 'licensed professional' means—

"(i) a physician or registered professional nurse, or

"(ii) any other individual who meets such requirements as may be prescribed by the Secretary after consultation with the Secretary of Health and Human Services.

"(E) CERTAIN SERVICES NOT INCLUDED.—The term 'qualified long-term care services' shall not include any services provided to an individual—

"(i) by a relative (directly or through a partnership, corporation, or other entity) unless the relative is a licensed professional with respect to such services, or

"(ii) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this subparagraph, the term 'relative' means an individual bearing a relationship to the individual which is described in paragraphs (1) through (8) of section 152(a)."

(d) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t) is amended by adding at the end the following new subparagraph:

"(E) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—A distribution from an individual retirement plan to an individual after separation from employment, if—

"(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

"(ii) such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1995.

SEC. 222. CONTRIBUTIONS MUST BE HELD AT LEAST 5 YEARS IN CERTAIN CASES.

(a) IN GENERAL.—Section 72(t), as amended by this Act, is amended by adding at the end the following new paragraph:

"(10) CERTAIN CONTRIBUTIONS MUST BE HELD 5 YEARS.—

"(A) IN GENERAL.—Paragraph (2)(A)(i) shall not apply to any amount distributed out of an individual retirement plan (other than a special individual retirement account) which is allocable to contributions made to the plan during the 5-year period ending on the date of such distribution (and earnings on such contributions).

"(B) ORDERING RULE.—For purposes of this paragraph, distributions shall be treated as having been made—

"(i) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(ii) then from other contributions (and earnings allocable thereto) in the order in which made.

Earnings shall be allocated to contributions in such manner as the Secretary may prescribe.

"(C) SPECIAL RULE FOR ROLLOVERS.—

"(i) PENSION PLANS.—Subparagraph (A) shall not apply to distributions out of an individual retirement plan which are allocable to rollover contributions to which section 402(c), 403(a)(4), or 403(b)(8) applied.

"(ii) CONTRIBUTION PERIOD.—For purposes of subparagraph (A), amounts shall be treated as having been held by a plan during any period such contributions were held (or are treated as held under this clause) by any individual retirement plan from which transferred.

"(D) SPECIAL ACCOUNTS.—For rules applicable to special individual retirement accounts under section 408A, see paragraph (8)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions (and earnings allocable thereto) which are made after December 31, 1995.

PRESIDENTIAL MESSAGE REGARDING THE MIDDLE-CLASS BILL OF RIGHTS

To the Congress of the United States:

I am pleased to transmit today for your immediate consideration and enactment the "Middle-Class Bill of Rights Tax Relief Act of 1995." I am also sending you an explanation of the revenue proposals of this legislation.

This bill is the next step in my Administration's continuing effort to raise living standards for working families and help restore the American Dream for all our people.

For 2 years, we have worked hard to strengthen our economy. We worked with the last Congress to enact legislation that will reduce the annual deficits of 1994–98 by more than $600 billion; we created nearly 6 million new jobs; we cut taxes for 15 million low-income families and gave tax relief to small businesses; we opened export markets through global and regional trade agreements; we invested in human and physical capital to increase productivity; and we reduced the Federal Government by more than 100,000 positions.

With that strong foundation in place, I am now proposing a Middle Class Bill of Rights. Despite our progress, too many Americans are still working harder for less. The Middle Class Bill of Rights will enable working Americans to raise their families and get the education and training they need to meet the demands of a new global economy. It will let middle-income families share in our economic prosperity today and help them build our economic prosperity tomorrow.

The "Middle-Class Bill of Rights Tax Relief Act of 1995" includes three of the four elements of my Middle Class Bill of Rights. First, it offers middle-income families a $500 tax credit for each child under 13. Second, it includes a tax deduction of up to $10,000 a year to help middle-income Americans pay for post-secondary education expenses and training expenses. Third, it lets more middle-income Americans make tax-deductible contributions to Individual Retirement Accounts and withdraw from them, penalty-free, for the costs of education and training, health care, first-time home-buying, long periods of unemployment, or the care of an ill parent.

The fourth element of my Middle Class Bill of Rights—not included in this legislation—is the GI Bill for America's Workers, which consolidates 70 Federal training programs and creates a more effective system for learning new skills and finding better jobs for adults and youth. Legislation for this proposal is being developed in cooperation with the Congress.

If enacted, the Middle Class Bill of Rights will help keep the American Dream alive for everyone willing to take responsibility for themselves, their families, and their futures. And it will not burden our children with more debt. In my fiscal 1996 budget, we have found enough savings not only to pay for this tax bill, but also to provide another $81 billion in deficit reduction between 1996 and 2000.

This legislation will restore fairness to our tax system, let middle-income families in our economic prosperity, encourage Americans to prepare for the future, and help ensure that the United States moves into the 21st Century still the strongest nation in the world.

I urge the Congress to take prompt and favorable action on this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 13, 1995.*

GENERAL EXPLANATION OF THE MIDDLE-CLASS BILL OF RIGHTS TAX RELIEF ACT OF 1995

TAX CREDIT FOR DEPENDENT CHILDREN

Current law

A tax exemption, in the form of a deduction, is allowed for each taxpayer and for each dependent of a taxpayer. A dependent includes a child of the taxpayer who is supported by the taxpayer and is under age 19 at the close of the calendar year or is a student under age 24. The deduction amount is $2,500 for tax year 1995. This amount is indexed annually for inflation.

In addition to an exemption for each child, three other tax benefits may accrue to taxpayers with dependent or otherwise qualifying children: the credit for child and dependent care expenses, the exclusion for employer-provided child and dependent care benefits, and the earned income tax credit (EITC).

The EITC is a refundable tax credit based on the earnings of the taxpayer. The EITC is restricted to lower-income taxpayers and is phased out when earnings exceed specified levels. Although the EITC is available for taxpayers without dependents or otherwise qualifying children, the credit rate and income range of the credit are far greater when the taxpayer has one or more qualifying children. In addition, the rate and income range are higher for taxpayers with two or more qualifying children than for taxpayers with only one qualifying child.

Reasons for change

Tax relief for middle-class families has been and continues to be an important goal of this Administration. In 1993, the Administration faced a projection of ever-increasing deficits. Bringing the deficit under control and providing tax relief for the working poor through an expansion of the EITC were the first priorities. Having achieved more favorable than projected results from the deficit reduction program introduced in 1993, the Administration can now turn to providing tax relief to middle-income families.

Tax relief to taxpayers with children is needed to adjust the relative tax burdens of smaller and larger families to reflect more accurately their relative abilities to pay taxes. Available resources should be targeted to those in greatest need and at greatest risk.

Proposal

A nonrefundable tax credit, which would be applied after the EITC, would be allowed for each dependent child under age 13. It would be phased in, at $300 per child for tax years 1996, 1997, and 1998, and $500 per child for 1999 and thereafter. The credit would not reduce any alternative minimum tax liability. The credit would be phased out for taxpayers with adjusted gross income between $60,000 and $75,000. Beginning in the year 2000, both the amount of the credit and the phase-out range would be indexed for the effects of inflation.

Taxpayers claiming the dependent child credit would be required to provide valid social security numbers for themselves, their spouses, and their children who qualify for the credit. The procedures that would apply for determining the validity of social security numbers under the EITC, discussed below, would apply for purposes of the dependent child credit.

REVENUE ESTIMATE

[In billions of dollars]

	Fiscal years—						Total
	1995	1996	1997	1998	1999	2000	
Tax credit for dependent children	0	−3.5	−6 8	−6.6	−8.3	−10.1	−35.4

EDUCATION AND JOB TRAINING TAX DEDUCTION

Current law

Taxpayers generally may not deduct the expenses of higher education and training. There are, however, special circumstances in which deductions for educational expenses are allowed, or in which the payment of educational expenses by others is excluded from income.

Educational expenses may be deductible, but only if the taxpayer itemizes, and only to the extent that the expenses, along with other miscellaneous itemized deductions, exceed two percent of adjusted gross income (AGI). A deduction for educational purposes is allowed only if the education maintains or improves a skill required in the individual's employment or other trade or business, or is required by the individual's employer, or by law or regulation for the individual to retain his or her current job.

The interest from qualified U.S. savings bonds is excluded from a taxpayer's gross income to the extent the interest is used to pay qualified educational expenses. To be qualified, the savings bonds must be purchased after December 31, 1989, by a person who has attained the age of 25. Qualified educational expenses consist of tuition and fees for enrollment of the taxpayer, the taxpayer's spouse, or the taxpayer's dependent at a public or non-profit institution of higher education, including two-year colleges and vocational schools.

Reasons for change

Deductions for educational expenses combine needed tax relief with preparation for new economic imperatives. The expenses of higher education place a significant burden on many middle-class families. Grants and subsidized loans are available to students from low- and moderate-income families; high-income families can afford the costs of higher education.

Well-educated workers are essential to an economy experiencing technological change and facing global competition. The Administration believes that reducing the after-tax cost of education for individuals and families encourages investment in education and training while lowering tax burdens for middle-income taxpayers.

Proposal

A taxpayer would be allowed to deduct qualified educational expenses paid during the taxable year for the education or training of the taxpayer, the taxpayer's spouse, or the taxpayer's dependent. The deduction would be allowed in determining AGI. Therefore, taxpayers could claim the deduction even if they do not itemize and even if they do not meet the two-percent AGI floor on itemized deductions.

Qualified educational expenses would be defined as tuition and fees charged by educational institutions that are directly related to an eligible student's course of study (e.g., registration fees, laboratory fees, and extra charges for particular courses). Charges and expenses associated with meals, lodging, student activities, athletics, health care, transportation, books and similar personal, living or family expenses would not be included. The expenses of education involving sports, games, or hobbies would not be qualified educational expenses unless the education is required as part of a degree program or related to the student's current profession.

Qualified educational expenses would be deductible in the year the expenses are paid, subject to the requirement that the education commences or continues during that year or during the first three months of the next year. Qualified educational expenses paid with the proceeds of a loan generally will be deductible (rather than repayment of the loan itself). Normal tax benefit rules would apply to refunds (and reimbursements through insurance) of previously deducted tuition and fees.

In 1996, 1997, and 1998, the maximum deduction would be $5,000. In 1999 and thereafter, this maximum would increase to $10,000. The deduction would be phased out ratably for taxpayers with modified AGI between $70,000 and $90,000 ($100,000 and $120,000 for joint returns). Modified AGI would include taxable Social Security benefits and amounts otherwise excluded with respect to income earned abroad (or income from Puerto Rico or U.S. possessions). Beginning in 2000, the income phase-out range would be indexed for inflation.

Any amount taken into account as a qualified educational expense would be reduced by educational assistance that is not required to be included in the gross income of either the student or the taxpayer claiming the deduction. Thus, qualified educational expenses would be reduced by scholarship or fellowship grants excludable from gross income under section 117 of the Internal Revenue Code (even if the grants are used to pay expenses other than qualified educational expenses) and any educational assistance received as veterans' benefits. However, no reduction would be required for a gift, bequest, devise or inheritance within the meaning of section 102(a).

An eligible student would be one who is enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the institution at which such student is enrolled) leading to a recognized educational credential at an eligible institution. The student must pursue a course of study on at least a half-time basis (or be taking a course to improve or acquire job skills), cannot be enrolled in an elementary or secondary school, and cannot be a nonresident alien. Educational institutions would determine what constitutes a half-time basis for individual programs.

"Eligible institution" is defined by reference to section 481 of the Higher Education Act. Such institutions must have entered into an agreement with the Department of Education to participate in the student loan program. This definition includes certain proprietary institutions.

This proposal would not affect deductions claimed under any other section of the Code, except that any amount deducted under another section of the Code could not also be deducted under this provision. An eligible student would not be eligible to claim a deduction under this provision if that student could be claimed as a dependent of another taxpayer.

REVENUE ESTIMATE

[In billions of dollars]

	Fiscal years—						
	1995	1996	1997	1998	1999	2000	Total
Education and job training tax deduction	0	−0.7	−4.7	−5.0	−5.8	−7.6	−23.7

EXPANDED INDIVIDUAL RETIREMENT ACCOUNTS

Current law

Under current law, an individual may make deductible contributions to an individual retirement account or individual retirement annuity (IRA) up to the lesser of $2,000 or compensation (wages and self-employment income). If the individual (or the individual's spouse) is an active participant in an employer-sponsored retirement plan, the $2,000 limit on deductible contributions is phased out for couples filing a joint return with adjusted gross income (AGI) between $40,000 and $50,000, and for single taxpayers with AGI between $25,000 and $35,000. To the extent that an individual is not eligible for deductible IRA contributions, he or she may make nondeductible IRA contributions (up to the contributions limit).

The earnings on IRA account balances are not included in income until they are withdrawn. Withdrawals from an IRA (other than withdrawals of nondeductible contributions) are includable in income, and must begin by age 70½. Amounts withdrawn before age 59½ are generally subject to an additional 10 percent penalty tax. The penalty tax does not apply to distributions upon the death or disability of the taxpayer or withdrawals in the form of substantially equal periodic payments over the life (or life expectancy) of the IRA owner or over the joint lives (or life expectancies) of the IRA owner and his or her beneficiary.

Reasons for change

The Nation's savings rate has declined dramatically since the 1970's. The Administration believes that increasing the savings rate is essential if the United States is to sustain a sufficient level of private investment into the next century. Without adequate investment, the continued healthy growth of the economy is at risk. The Administration is also concerned that many households are not saving enough to provide for long-term needs such as retirement and education.

The Administration believes that individuals should be encouraged to save, and that tax policies can provide a significant incentive. Under current law, however, savings incentives in the form of deductible IRAs are not available to all middle-income taxpayers. Furthermore, the present-law income thresholds for deductible IRAs and the maximum contribution amount are not indexed for inflation, so that fewer Americans are eligible to make a deductible IRA contribution each year, and the amount of the maximum contribution is declining in real terms over time. The Administration also believes that providing taxpayers with the option of making IRA contributions that are nondeductible but can be withdrawn tax free will provide an alternative savings vehicle that some middle-income taxpayers may find more suitable for their savings needs.

Individuals save for many purposes besides retirement. Broadening the tax incentives for non-retirement saving can be an important element in any proposal to increase the Nation's savings rate. Expanding the flexibility of IRAs to meet a wider variety of savings needs, such as first-time home purchases, higher education expenditures, unemployment and catastrophic medical and nursing home expenses, should prove to be more attractive to many taxpayers than accounts limited to retirement savings.

Proposal

Expand Deductible IRAs: Under the proposal the income thresholds and phase-out ranges for deductible IRAs would be doubled; therefore, eligibility would be phased out for couples filing joint returns with AGI between $80,000 and $100,000 and for single individuals with AGI between $50,000 and $70,000. The income thresholds and the present-law annual contribution limit of $2,000 would be indexed for inflation. As under current law, any individual who is not an active participant in an employer-sponsored plan and whose spouse is also not an active participant would be eligible for deductible IRAs regardless of income.

Under the proposal, the IRA contribution limit would be coordinated with the current law limits on elective deferrals under qualified cash or deferred arrangements (sec. 401(k) plans), tax-sheltered annuities (sec. 403(b) annuities), and similar plans. The proposal also would provide that the present-law rule permitting penalty-free IRA withdrawals after an individual reaches age 59½ does not apply in the case of amounts attributable to contributions made during the previous five years. This provision does not apply to amounts rolled over from tax-qualified plans or tax-sheltered annuities.

These provisions would be effective January 1, 1996.

Special IRAs: Each individual eligible for a traditional deductible IRA would have the option of contributing an amount up to the contribution limit to either a deductible IRA or to a new "Special IRA." Contributions to a Special IRA would not be deductible, but if the contributions remained in the account for at least five years, distributions of the contributions and earnings thereon would be tax-free. Withdrawals of earnings from Special IRAs during the five-year period after contribution would be subject to ordinary income tax. In addition, such withdrawals would be subject to the 10-percent penalty tax on early withdrawals unless used for one of the four purposes described below.

The proposal would permit individuals whose AGI for a taxable year did not exceed the upper end of the new income eligibility limits to convert balances in deductible IRAs into Special IRAs without being subject to the 10-percent tax on early withdrawals. The amount transferred from the deductible IRA to the Special IRA generally would be includable in the individual's income in the year of the transfer. However, if a transfer was made before January 1, 1997, the transferred amount included in the individual's income would be spread evenly over four taxable years.

The Special IRA provisions would be effective January 1, 1996.

Penalty-Free Distributions. Amounts could be withdrawn penalty-free from deductible IRAs and Special IRAs within the five-year period after contribution, if the taxpayer used the amounts to pay post-secondary education costs, to buy or build a first home, to cover living costs if unemployed, or to pay catastrophic medical expenses (including certain nursing home costs).

a. *Education expenses:*

Penalty-free withdrawals would be allowed to the extent the amount withdrawn is used to pay qualified higher education expenses of the taxpayer, the taxpayer's spouse, the taxpayer's dependent, or the taxpayer's child or grandchild (even if not a dependent). In general, a withdrawal for qualified higher education expenses would be subject to the same requirements as the deduction for qualified educational expenses (*e.g.*, the expenses are tuition and fees that are charged by educational institutions and are directly related to an eligible student's course of study).

b. *First-time home purchasers:*

Penalty-free withdrawals would be allowed to the extent the amount withdrawn is used to pay qualified acquisition, construction, or reconstruction costs with respect to a principal residence of a first-time home buyer who is the taxpayer, the taxpayer's spouse, or the taxpayer's child or grandchild. A first-time home buyer would be any individual (and if married, the individual's spouse) who (1) did not own an interest in a principal residence during the three years prior to the purchase of a home and (2) was not in an extended period for rolling over gain from the sale of a principal residence.

c. *Unemployment:*

Penalty-free withdrawals could be made by an individual after the individual is separated from employment if (1) the individual has received unemployment compensation for 12 consecutive weeks and (2) the withdrawal is made in the taxable year in which the unemployment compensation is received for the succeeding taxable year.

d. Medical care expenses and nursing home costs:

The proposal would extend to IRAs the present-law exception to the early withdrawal tax for distributions from tax-qualified plans and tax-sheltered annuities for certain medical care expenses (deductible medical expenses that are subject to a floor of 7.5 percent of AGI) and expand the exception for IRAs to allow withdrawal for medical care expenses of the taxpayer's child, grandchild, parent or grandparent, whether or not such person otherwise qualifies as the taxpayer's dependent.

In addition, for purposes of the exemption from the 10 percent tax on early withdrawals for distributions from IRAs, the definition of medical care would include expenses for qualified long-term care services for incapacitated individuals. Qualified long-term care services generally would be services that are required by an incapacitated individual, where the primary purpose of the services is to provide needed assistance with any activity of daily living or protection from threats to health and safety due to severe cognitive impairment. An incapacitated individual generally would be a person who is certified by a licensed professional within the preceding 12-month period as being unable to perform without substantial assistance at least two activities of daily living, or as having severe cognitive impairment.

These provisions would be effective January 1, 1996.

REVENUE ESTIMATE

[In billions of dollars]

	Fiscal years—						
	1995	1996	1997	1998	1999	2000	Total
Expanded individual retirement accounts ...	0	0.4	−0.3	−0.8	−1.0	−2.0	−3.8

Mr. DASCHLE. Mr. President, I am pleased to join my distinguished colleague from New York, the ranking member of the Finance Committee, in introducing the President's Middle-Class Bill of Rights, a modest package of measures that will make it easier for middle-income Americans to raise their children, educate themselves and/or their children, and save for retirement.

These proposals are in stark contrast to the tax cut proposals advanced by Republicans. The tax cuts in the Republican Contract With America would cost four times as much as the President's tax cuts over the next 10 years, with the overwhelming majority of the benefit going to those making more than $100,000.

According to a recent report prepared by the Joint Committee on Taxation, while the Republican tax cuts would cost $200 billion over the first 5 years, that cost would balloon to $704 billion over 10 years. The President's Middle-Class Bill of Rights would cost less than a quarter of that amount—$171 billion—over a 10-year period.

In other words, Republicans are proposing tax cuts that will benefit the middle class, while at the same time asking those same middle-income Americans to pay for tax cuts for high-income taxpayers that are three times as large. That doesn't sound like a fair deal to me.

While there are some similarities between the President's tax cuts and those contained in the Contract With America, the principal difference is that the contract includes tax cuts for high-income people and large corporations. And, as far as their impact on the budget and middle-income taxpayers is concerned, it is an exceedingly large difference.

Another way the President's tax cuts can be distinguished from Republican proposals is that the President would provide middle-income tax relief specifically for higher education and job training. Education and job training expenses are among the largest costs faced by middle-income families. Yet, education and job training are critical tools needed by middle-class Americans to build more quality of life for themselves and their children.

Mr. President, I understand that the Finance Committee already has held hearings on the President's proposal, and I look forward to reviewing the committee's report on the testimony presented at those hearings.

By Mr. MOYNIHAN (for himself and Mr. DASCHLE) (by request):

S. 453. A bill to amend the Internal Revenue Code of 1986 to modify the eligibility criteria for the earned income tax credit, to improve tax compliance by U.S. persons establishing or benefiting from foreign trusts, and for other purposes; to the Committee on Finance.

THE TAX COMPLIANCE ACT OF 1995

Mr. MOYNIHAN. Mr. President, as ranking member of the Committee on Finance, I am today joining with the Democratic leader in introducing a bill, at the request of the administration, containing the statutory provisions that implement the tax compliance proposals in the President's fiscal year 1996 budget submission.

By making statutory language available early in the legislative process, the administration has aided the process of Senate consideration of these provisions. This legislation also will serve to answer many of the questions that the public may have with respect to the President's tax proposals.

I want to thank the administration for providing this level of detail in so timely a fashion, and I look forward to working with them on these proposals in the coming months.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

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

S. 453

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Tax Compliance Act of 1995".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

TITLE I—PROVISIONS RELATING TO THE EARNED INCOME CREDIT

SEC. 101. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) (relating to individuals eligible to claim the earned income tax credit) is amended by adding at the end the following new subparagraph:

"(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

"(i) such individual's taxpayer identification number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse."

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 is amended by adding at the end the following new subsection:

"(k) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act)."

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", and", and by inserting after subparagraph (E) the following new subparagraph:

"(F) an omission of a correct taxpayer identification number required under section 23 (relating to credit for families with younger children) or section 32 (relating to the earned income tax credit) to be included on a return."

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

SEC. 102. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS WITH SUBSTANTIAL UNEARNED INCOME.

(a) IN GENERAL.—Paragraph (1) of section 32(c) (relating to individuals eligible to claim the earned income tax credit) is amended by adding at the end the following new subparagraph:

"(G) EXCEPTION FOR INDIVIDUAL WITH SUBSTANTIAL INTEREST AND DIVIDEND INCOME.—The term 'eligible individual' shall not include any individual if the aggregate amount of interest and dividends includible in the gross income of the taxpayer for the taxable year exceeds $2,500."

(b) CONFORMING AMENDMENT.—

(1) Paragraph (2) of section 32(i) (relating to inflation adjustments) is amended to read as follows:

"(2) UNEARNED INCOME LIMITATION.—In the case of a taxable year beginning in a calendar year after 1996, the dollar amount contained in subsection (c)(1)(G) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $50, such dollar amount shall be rounded to the nearest multiple of $50."

(2) Paragraph (1) of section 32(i) is amended by adding at the end the following new flush sentence:

"If any amount as adjusted under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

TITLE II—PROVISIONS RELATING TO INTERNATIONAL TAXATION

SEC. 201. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) CITIZENS.—If any United States citizen relinquishes his citizenship during a taxable year, all property held by such citizen at the time immediately before such relinquishment shall be treated as sold at such time for its fair market value and any gain or loss shall be taken into account for such taxable year.

"(2) CERTAIN RESIDENTS.—If any long-term resident of the United States ceases to be subject to tax as a resident of the United States for any portion of any taxable year, all property held by such resident at the time of such cessation shall be treated as sold at such time for its fair market value and any gain or loss shall be taken into account for the taxable year which includes the date of such cessation.

"(b) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this subsection) be includible in the gross income of any taxpayer by reason of subsection (a) shall be reduced (but not below zero) by $600,000.

"(c) PROPERTY TREATED AS HELD.—For purposes of this section, except as otherwise provided by the Secretary, an individual shall be treated as holding—

"(1) all property which would be includible in his gross estate under chapter 11 were such individual to die at the time the property is treated as sold,

"(2) any other interest in a trust which the individual is treated as holding under the rules of section 679(e) (determined by treating such section as applying to foreign and domestic trusts), and

"(3) any other interest in property specified by the Secretary as necessary or appropriate to carry out the purposes of this section.

"(d) EXCEPTIONS.—The following property shall not be treated as sold for purposes of this section:

"(1) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the date the individual relinquishes his citizenship or ceases to be subject to tax as a resident, meet the requirements of section 897(c)(2).

"(2) INTEREST IN CERTAIN RETIREMENT PLANS.—

"(A) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(d)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

"(B) FOREIGN PENSION PLANS.—

"(i) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

"(ii) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

"(e) DEFINITIONS.—For purposes of this section—

"(1) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the date the United States Department of State issues to the individual a certificate of loss of nationality or on the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

"(2) LONG-TERM RESIDENT.—

"(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States and, as a result of such status, has been subject to tax as a resident in at least 10 taxable years during the period of 15 taxable years ending with the taxable year during which the sale under subsection (a) is treated as occurring.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any taxable year during which any prior sale is treated under subsection (a) as occurring, or

"(ii) any taxable year prior to the taxable year referred to in clause (i).

"(f) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a)—

"(1) any period deferring recognition of income or gain shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable.

"(g) ELECTION BY EXPATRIATING RESIDENTS.—Solely for purposes of determining gain under subsection (a)—

"(1) IN GENERAL.—At the election of a resident not a citizen of the United States, property—

"(A) which was held by such resident on the date the individual first became a resident of the United States during the period of long-term residency to which the treatment under subsection (a) relates, and

"(B) which is treated as sold under subsection (a),

shall be treated as having a basis on such date of not less than the fair market value of such property on such date.

"(2) ELECTION.—Such an election shall apply to all property described in paragraph (1), and, once made, shall be irrevocable.

"(h) DEFERRAL OF TAX ON CLOSELY HELD BUSINESS INTERESTS.—The District Director may enter into an agreement with any individual which permits such individual to defer payment for not more than 5 years of any tax imposed by subsection (a) by reason of holding any interest in a closely held business (as defined in section 6166(b)) other than a United States real property interest described in subsection (d)(1).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

"(j) CROSS REFERENCE.—

"For termination of United States citizenship for tax purposes, see section 7701(a)(47)."

(b) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(1)."

(c) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(f) TERMINATION.—This section shall not apply to any individual who is subject to the provisions of section 877A."

(2) Paragraph (10) of section 7701(b) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any individual who is subject to the provisions of section 877A."

(d) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) United States citizens who relinquish (within the meaning of section 877A(e)(1) of the Internal Revenue Code of 1986, as added by this section) United States citizenship on or after February 6, 1995, and

(2) long-term residents (as defined in such section) who cease to be subject to tax as residents of the United States on or after such date.

SEC. 202. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall—

"(A) notify each trustee of the trust of the requirements of subsection (b), and

"(B) provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1)(B) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event,

"(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust, and

"(C) a statement that each trustee of the trust has been informed of the requirements of subsection (b).

"(3) REPORTABLE EVENT.—For purposes of this subsection, the term 'reportable event' means—

"(A) the creation of any foreign trust by a United States person,

"(B) the transfer of any money or property to a foreign trust by a United States person, including a transfer by reason of death,

"(C) a domestic trust becoming a foreign trust,

"(D) the death of a citizen or resident of the United States who is a grantor of a foreign trust, and

"(E) the residency starting date (within the meaning of section 7701(b)(2)(A)) of a grantor of a foreign trust subject to tax under section 679(a)(3).

Subparagraphs (A) and (B) shall not apply with respect to a trust described in section 404(a)(4) or 404A.

"(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of a reportable event described in subparagraph (A) or (E) of paragraph (3),

"(B) the transferor in the case of a reportable event described in paragraph (3)(B) other than a transfer by reason of death,

"(C) the trustee of the domestic trust in the case of a reportable event described in paragraph (3)(C), and

"(D) the executor of the decedent's estate in the case of a transfer by reason of death.

"(b) TRUST REPORTING REQUIREMENTS.—If a foreign trust, at any time during a taxable year of such trust—

"(1) has a grantor who is a United States person and—

"(A) such grantor is treated as the owner of any portion of such trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(B) any portion of such trust would be included in the gross estate of such grantor if the grantor were to die at such time, or

"(2) directly or indirectly distributes, credits, or allocates money or property to any United States person (whether or not the trust has a grantor described in paragraph (1)),

then such trust shall meet the requirements of subsection (c) (relating to trust information and agent) and subsection (d) (relating to annual return).

"(c) CONTENTS OF SECTION 6048 STATEMENT.—

"(1) IN GENERAL.—The requirements of this subsection are met if the trust files with the Secretary a statement which contains such information as the Secretary may prescribe and which—

"(A) identifies a United States person who is the trust's limited agent to provide the Secretary with such information that reasonably should be available to the trust for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine trust records or produce testimony related to any transaction by the trust or with respect to any summons by the Secretary for such records or testimony, and

"(B) contains an agreement to comply with the requirements of subsection (d).

"(2) SPECIAL RULE.—A foreign trust which appoints an agent described in paragraph (1)(A) shall not be considered to have an office or a permanent establishment in the United States solely because of the activities of such agent pursuant to this section. For purposes of this section, the appearance of persons or production of records by reason of the creation of the agency shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the activities and operations of the trust.

"(d) ANNUAL RETURNS AND STATEMENTS.—The requirements of this subsection are met if—

"(1) the trust makes a return for the taxable year which sets forth a full and complete accounting of all trust activities and operations for the taxable year, and contains such other information as the Secretary may prescribe; and

"(2) the trust furnishes such information as the Secretary may prescribe to each United States person—

"(A) who is treated as the owner of any portion of such trust under the rules of subpart E of part I of subchapter J of chapter 1,

"(B) to whom any item with respect to the taxable year is credited or allocated, or

"(C) who receives a distribution from such trust with respect to the taxable year.

"(e) TIME AND MANNER OF FILING INFORMATION.—Any notice, statement, or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(f) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information."

(b) PENALTIES.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) FAILURE TO REPORT CERTAIN EVENTS.—

"(1) IN GENERAL.—In the case of a reportable event described in any subparagraph of section 6048(a)(3) for which a responsible party does not file a written notice meeting the requirements of section 6048(a)(2) within the time specified in section 6048(a)(1), the responsible party shall pay a penalty of $10,000. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the responsible party, such party shall pay a penalty (in addition to the $10,000 amount) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period.

"(2) 35-PERCENT PENALTY.—In the case of a reportable event described in subparagraph (A), (B), or (C) of section 6048(a)(3) (other than a transfer by reason of death), the aggregate amount of the penalties under paragraph (1) shall not be less than an amount equal to 35 percent of the gross value of the property involved in such event (determined as of the date of the event).

"(3) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' has the meaning given to such term by section 6048(a)(4).

"(b) FAILURE TO MAKE CERTAIN STATEMENTS AND RETURNS.—

"(1) IN GENERAL.—In the case of any failure to meet the requirements of section 6048(b), the appropriate tax treatment of any trust transactions or operations shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(2) MONETARY PENALTY.—In the case of any failure to meet the requirements of section 6048(b) with respect to a trust described in such section by reason of paragraph (1) thereof, the grantor described in such paragraph (1) shall pay a penalty of $10,000 for each taxable year with respect to which the foreign trust fails to meet such requirements. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to such grantor, such grantor shall pay a penalty (in addition to any other penalty) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the requested documentation is not reasonable cause.

"(d) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by this section."

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 6048. Information with respect to certain foreign trusts."

(2) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply—

(A) to reportable events occurring on or after February 6, 1995, and

(B) to the extent such amendments require reporting for any taxable year under section 6048(b) of the Internal Revenue Code of 1986 (as added by this section), to taxable years beginning after the date of the enactment of this Act.

(2) NOTICES.—For purposes of section 6048(a) of such Code, the 90th day referred to therein shall in no event be treated as being earlier than the 90th day after the date of the enactment of this Act.

SEC. 203. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) IN GENERAL.—Section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended to read as follows:

"SEC. 679. FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

"(a) TRANSFEROR TREATED AS OWNER.—

"(1) IN GENERAL.—A United States person who directly or indirectly transfers property to a foreign trust (other than a trust described in section 404(a)(4) or section 404A) shall be treated as the owner for his taxable year of the portion of such trust attributable to such property if for such year there is a United States beneficiary of such trust.

"(2) EXCEPTION.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any sale or exchange of property to a trust if—

"(i) the trust pays fair market value for such property, and "(ii) all of the gain to the transferor is recognized at the time of transfer.

"(B) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), in determining whether the transferor received fair market value, there shall not be taken into account—

"(i) any obligation of—

"(I) the trust,

"(II) any grantor or beneficiary of the trust, or

"(III) any person who is related (within the meaning of section 643(i)(3)) to any grantor or beneficiary of the trust, and

"(ii) except as provided in regulations, any obligation which is guaranteed by a person described in clause (i).

"(C) TREATMENT OF DEEMED SALE ELECTION UNDER SECTION 1057.—For purposes of subparagraph (A), a transfer with respect to which an election under section 1057 is made shall not be treated as a sale or exchange.

"(3) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—A nonresident alien individual who becomes a United States resident within 5 years after directly or indirectly transferring property to a foreign trust shall be treated for purposes of this section and section 6048 as having transferred such property, and any undistributed income (including all realized and unrealized gains) attributable thereto, to the foreign trust immediately after becoming a United States resident. For this purpose, a nonresident alien shall be treated as becoming a resident of the United States on the residency starting date (within the meaning of section 7701(b)(2)(A)).

"(b) BENEFICIARIES TREATED AS TRANSFERORS IN CERTAIN CASES.—For purposes of this section and section 6048, if—

"(1) a citizen or resident of the United States who is treated as the owner of any portion of a trust under subsection (a) dies,

"(2) property is transferred to a foreign trust by reason of the death of a citizen or resident of the United States, or

"(3) a domestic trust to which any United States person made a transfer becomes a foreign trust,

then, except as otherwise provided in regulations, the trust beneficiaries shall be treated as having transferred to such trust (as of the date of the applicable event under paragraph (1), (2), or (3)) their respective interests (as determined under subsection (e)) in the property involved.

"(c) TRUSTS ACQUIRING UNITED STATES BENEFICIARIES.—If—

"(1) subsection (a) applies to a trust for the transferor's taxable year, and

"(2) subsection (a) would have applied to the trust for the transferor's immediately preceding taxable year but for the fact that for such preceding taxable year there was no United States beneficiary for any portion of the trust,

then, for purposes of this subtitle, the transferor shall be treated as having received as an accumulation distribution taxable under subpart D an amount equal to the undistributed net income (as determined under section 665(a) as of the close of such immediately preceding taxable year) attributable to the portion of the trust referred to in subsection (a).

"(d) TRUSTS TREATED AS HAVING A UNITED STATES BENEFICIARY.—

"(1) IN GENERAL.—For purposes of this section, a trust shall be treated as having a United States beneficiary for the taxable year unless—

"(A) under the terms of the trust, no part of the income or corpus of the trust may be paid or accumulated during the taxable year to or for the benefit of a United States person, and

"(B) if the trust were terminated at any time during the taxable year, no part of the income or corpus of such trust could be paid to or for the benefit of a United States person.

To the extent provided by the Secretary, for purposes of this subsection, the term 'United States person' includes any person who was a United States person at any time during the existence of the trust.

"(2) ATTRIBUTION OF OWNERSHIP.—For purposes of paragraph (1), an amount shall be treated as paid or accumulated to or for the benefit of a United States person if such amount is paid to or accumulated for a foreign corporation, foreign partnership, or foreign trust or estate, and—

"(A) in the case of a foreign corporation, more than 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote is owned (within the meaning of section 958(a)) or is considered to be owned (within the meaning of section 958(b)) by United States shareholders (as defined in section 951(b)),

"(B) in the case of a foreign partnership, a United States person is a partner of such partnership, or

"(C) in the case of a foreign trust or estate, such trust or estate has a United States beneficiary (within the meaning of paragraph (1)).

"(e) DETERMINATION OF BENEFICIARIES' INTERESTS IN TRUST.—

"(1) GENERAL RULE.—For purposes of this section, a beneficiary's interest in a foreign trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

"(2) SPECIAL RULE.—In the case of beneficiaries whose interests in a trust cannot be determined under paragraph (1)—

"(A) the beneficiary having the closest degree of kinship to the grantor shall be treated as holding the remaining interests in the trust not determined under paragraph (1) to be held by any other beneficiary, and

"(B) if 2 or more beneficiaries have the same degree of kinship to the grantor, such remaining interests shall be treated as held equally by such beneficiaries.

"(3) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a foreign trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(4) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(A) the methodology used to determine that taxpayer's trust interest under this section, and

"(B) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending on or after February 6, 1995.xxxxx

(2) SECTION 679(a).—Paragraphs (2) and (3) of section 679(a) of the Internal Revenue Code of 1986 (as added by this section) shall apply to—

(A) any trust created on or after February 6, 1995, and

(B) the portion of any trust created before such date which is attributable to actual transfers of property to the trust on or after such date.

(3) SECTION 679(b).—

(A) IN GENERAL.—Paragraphs (1) and (2) of section 679(b) of such Code (as so added) shall apply to—

(i) any trust created on or after the date of the enactment of this Act, and

(ii) the portion of any trust created before such date which is attributable to actual transfers of property to the trust on or after such date.

(B) SECTION 679(b)(3).—Section 679(b)(3) of such Code (as so added) shall take effect on February 6, 1995, without regard to when the property was transferred to the trust.

SEC. 204. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) IN GENERAL.—So much of section 672(f) (relating to special rule where grantor is foreign person) as precedes paragraph (2) is amended to read as follows:

"(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being included (directly or through 1 or more entities) in the gross income of a citizen or resident of the United States or a domestic corporation. The preceding sentence shall not apply to any portion of an investment trust if such trust is treated as a trust for purposes of this title and the grantor of such portion is the sole beneficiary of such portion."

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust income."

(c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 is amended by adding at the end the following new subsection:

"(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person."

(2) Section 665 is amended by striking subsection (c).

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1996, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 205. GRATUITOUS TRANSFERS BY PARTNERSHIPS AND FOREIGN CORPORATIONS.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

"SEC. 7874. PURPORTED GIFTS BY PARTNERSHIPS AND FOREIGN CORPORATIONS.

"(a) IN GENERAL.—Any property (including money) that is purportedly a direct or indirect gift by a partnership or a foreign corporation to a person who is not a partner of the partnership or a shareholder of the corporation, respectively, may be recharacterized by the Secretary to prevent the avoidance of tax. The Secretary may not recharacterize gifts made for bona fide business or charitable purposes.

"(b) STATEMENTS ON RECIPIENT'S RETURN.—A taxpayer who receives a purported gift subject to subsection (a) shall attach a statement to his income tax return for the year of receipt that identifies the property received and describes fully the circumstances surrounding the purported gift.

"(c) EXEMPTION.—Subsection (a) shall not apply to purported gifts received by any person during any taxable year if the amount thereof is less than $2,500.

"(d) REGULATIONS.—The Secretary may prescribe such rules as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter C is amended by adding at the end the following new item:

"Sec. 7874. Purported gifts by partnerships and foreign corporations."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act.

SEC. 206. INFORMATION REPORTING REGARDING LARGE FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. NOTICE OF LARGE GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $100,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Notice of large gifts received from foreign persons."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 207. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) SUM OF INTEREST CHARGES FOR EACH THROWBACK YEAR.—The interest charge (determined under paragraph (2)) with respect to any distribution is the sum of the interest charges for each of the throwback years to which such distribution is allocated under section 666(a).

"(2) INTEREST CHARGE FOR YEAR.—Except as provided in paragraph (6), the interest charge for any throwback year on such year's allocable share of the partial tax computed under section 667(b) with respect to any distribution shall be determined for the period—

"(A) beginning on the due date for the throwback year, and

"(B) ending on the due date for the taxable year of the distribution,

by using the rates and method applicable under section 6621 for underpayments of tax for such period. For purposes of the preceding sentence, the term 'due date' means the date prescribed by law (determined without regard to extensions) for filing the return of the tax imposed by this chapter for the taxable year.

"(3) ALLOCABLE PARTIAL TAX.—For purposes of paragraph (2), a throwback year's allocable share of the partial tax is an amount equal to such partial tax multiplied by the fraction—

"(A) the numerator of which is the amount deemed by section 666(a) to be distributed on the last day of such throwback year, and

"(B) the denominator of which is the accumulation distribution taken into account under section 666(a).

"(4) THROWBACK YEAR.—For purposes of this subsection, the term 'throwback year' means any taxable year to which a distribution is allocated under section 666(a).

"(5) PERIODS OF NONRESIDENCE.—The period under paragraph (2) shall not include any portion thereof during which the beneficiary was not a citizen or resident of the United States.

"(6) THROWBACK YEARS BEFORE 1996.—In the case of any throwback year beginning before 1996—

"(A) interest for the portion of the period described in paragraph (2) which occurs before the first taxable year beginning after 1995 shall be determined by using an interest rate of 6 percent and no compounding, and

"(B) interest for the remaining portion of such period shall be determined as if the partial tax computed under section 667(b) for the throwback year were increased (as of the beginning of such first taxable year) by the amount of the interest determined under subparagraph (A)."

(b) RULE WHEN INFORMATION NOT AVAILABLE.—Subsection (d) of section 666 is amended by adding at the end the following: "In the case of a distribution from a foreign trust to which section 6048(b) applies, adequate records shall not be considered to be available for purposes of the preceding sentence unless such trust meets the requirements referred to in such section. If a taxpayer is not able to demonstrate when a trust was created, the Secretary may use any reasonable approximation based on available evidence."

(c) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes."

(d) TREATMENT OF USE OF TRUST PROPERTY.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) USE OF FOREIGN TRUST PROPERTY.—

"(1) GENERAL RULE.—For purposes of subparts B, C, and D, if, during a taxable year of a foreign trust a trust participant of such trust directly or indirectly uses any of the trust's property, the use value for such taxable year shall be treated as an amount paid to such participant (other than from income for the taxable year) within the meaning of sections 661(a)(2) and section 662(a)(2).

"(2) EXEMPTION.—Paragraph (1) shall not apply to any trust participant as to whom the aggregate use value during the taxable year does not exceed $2,500.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) USE VALUE.—Except as provided in subparagraph (B), the term 'use value' means the fair market value of the use of property reduced by any amount paid for such use by the trust participant or by any person who is related to such participant.

"(B) SPECIAL RULE FOR CASH AND CASH EQUIVALENT.—A direct or indirect loan of cash, or cash equivalent, by a foreign trust shall be treated as a use of trust property by the borrower and the full amount of the loan principal shall be the use value.

"(C) USE BY RELATED PARTY.—

"(i) Use by a person who is related to a trust participant shall be treated as use by the participant.

"(ii) If property is used by any person who is a related person with respect to more than one trust participant, then the property shall be treated as used by the trust participant most closely related, by blood or otherwise, to such person.

"(D) PROPERTY INCLUDES CASH AND CASH EQUIVALENTS.—The term 'property' includes cash and cash equivalents.

"(E) TRUST PARTICIPANT.—The term 'trust participant' means each grantor and beneficiary of the trust.

"(F) RELATED PERSON.—A person is related to a trust participant if the relationship between such persons would result in a disallowance of losses under section 267(b) or 707(b). In applying section 267 for purposes of the preceding sentence—

"(i) section 267(e) shall be applied as if such person or the trust participant were a pass-thru entity,

"(ii) section 267(b) shall be applied by substituting 'at least 10 percent' for 'more than 50 percent' each place it appears, and

"(iii) in determining the family of an individual under section 267(c)(4), such section shall be treated as including the spouse (and former spouse) of such individual and of each other person who is treated under such section as being a member of the family of such individual or spouse.

"(G) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan described in subparagraph (B) is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to interest for throwback years beginning before, on, or after the date of the enactment of this Act.

SEC. 208. RESIDENCE OF ESTATES AND TRUSTS.

(a) TREATMENT AS UNITED STATES PERSON.—Paragraph (30) of section 7701(a) is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

"(D) any estate or trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

"(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust."

(b) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) to taxable years beginning after December 31, 1996, and

(2) at the election of the trustee of a trust, to taxable years beginning after the date of the enactment of this Act and on or before December 31, 1996.

Such an election, once made, shall be irrevocable.

TITLE III—ADDITIONAL EMPOWERMENT ZONES

SEC. 301. ADDITIONAL EMPOWERMENT ZONES.

(a) IN GENERAL.—Paragraph (2) of section 1391(b) (relating to designations of empowerment zones and enterprise communities) is amended—

(1) by striking "9" and inserting "11",

(2) by striking "6" and inserting "8", and

(3) by striking "750,000" and inserting "1,000,000".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

DEPARTMENT OF THE TREASURY,
Washington, DC, February 15, 1995.

Hon. DANIEL PATRICK MOYNIHAN,
Ranking Democratic Member, Committee on Finance, U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: I am pleased to transmit the enclosed Tax Compliance Act of 1995 for your immediate consideration. The provisions contained in this bill, which were described in the budget submitted by the President to Congress February 6, 1995, include a number of compliance and related measures. Several proposals are aimed at curbing offshore tax abuses. One proposal would close a tax loophole that allows wealthy Americans to renounce their citizenship and avoid paying tax on appreciated assets. Another would tighten tax rules governing foreign trusts set up by U.S. taxpayers and foreigners. In addition, the earned income tax credit would be denied to undocumented workers and individuals whose interest and dividend income exceeds $2,500. Finally, the bill would authorize the designation of two additional urban empowerment zones.

An identical bill has been sent to Representative Gibbons of the House Ways and Means Committee, Senate Democratic Leader Daschle, and House Democratic Leader Gephardt. I urge Congress to give the attached bill prompt and favorable consideration.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

ROBERT E. RUBIN,
Secretary of the Treasury.

GENERAL EXPLANATION OF THE TAX COMPLIANCE ACT OF 1995

EARNED INCOME TAX CREDIT COMPLIANCE PROPOSALS

Current law

To be eligible for the Earned Income Tax Credit (EITC), a taxpayer must reside in the United States for over six months. Nonresident aliens are not entitled to the EITC beginning in 1995. Other non-U.S. citizens are eligible for the EITC if, among other things, they meet a six-month residency requirement and do not file an income tax return as a non-resident alien.

To claim the higher EITC amounts available to taxpayers with qualifying children, those taxpayers are required to provide taxpayer identification numbers (TINs) for each qualifying child. Unless otherwise proscribed by regulation, social security numbers serve as TINs. Some taxpayers are unable to obtain social security numbers. Under section 205(c) of the Social Security Act, social security numbers are generally issued only to individuals who are citizens or who are authorized to work in the U.S. Undocumented workers may not be able to obtain social security numbers.

The IRS must follow deficiency procedures when investigating questionable EITC claims. First, contact letters are sent to the taxpayer. If the necessary information is not provided by the taxpayer, a statutory notice of deficiency is sent by certified mail, notifying the taxpayer that the adjustment will be assessed unless the taxpayer files a petition in Tax Court within 90 days. If a petition is not filed within that time and there is no other response to the statutory notice, the assessment is made and the EITC is denied.

Reasons for change

The Administration believes that the EITC should not be available to individuals who are not authorized to work in the United States. During the past year, the Administration and Congress have taken steps to improve the administration of the EITC. Further steps are desirable to ensure that only the intended beneficiaries receive the EITC.

Proposal

Only individuals who are authorized to work in the United States would be eligible for the EITC. Taxpayers claiming the EITC would be required to provide a valid social security number for themselves, their spouses, and qualifying children. Social security numbers would have to be valid for employment purposes in the United States. Thus, eligible individuals would include U.S. citizens and lawful permanent residents. Taxpayers residing in the United States illegally would not be eligible for the credit.

In addition, the IRS would be authorized to use the math-error procedures, which are simpler than deficiency procedures, to resolve questions about the validity of a social security number. Under this approach, the failure to provide a correct social security number would be treated as a math error. Taxpayers would have 60 days in which they could either provide a correct social security number or request that the IRS follow the current-law deficiency procedures. If a taxpayer failed to respond within this period, he or she would be required to refile with correct social security numbers in order to obtain the EITC.

These provisions would be effective for tax years beginning after December 31, 1995.

REVENUE ESTIMATE

[In billions of dollars][1]

	Fiscal year—						
	1995	1996	1997	1998	1999	2000	Total
EITC compliance proposals	0	0	0.4	0.5	0.5	0.5	1.9

[1] Includes reduction in outlays.