

foreign governments to commit to this principle: Now, therefore, be it—

*Resolved by the Senate (the House of Representatives concurring), That Congress hereby—*

(1) condemns the newly passed Russian antireligion law restricting freedom of religion, and violating international norms, international treaties to which the Russian Federation is a signatory, and the Constitution of Russia;

(2) recommends that President Clinton make the United States position clear to President Yeltsin and the Russian legislature that this antireligion law may seriously harm United States-Russian relations;

(3) calls upon President Yeltsin and the Russian legislature to uphold their international commitments on human rights, abide by the Russian Constitution's guarantee of freedom of religion, and reconsider their position by amending the new antireligion law and lifting all restrictions on freedom of religion; and

(4) calls upon all governments and legislatures of the independent states of the former Soviet Union to respect religious human rights in accordance with their international commitments and resist efforts to adopt the Russian discriminatory law.

#### AMENDMENTS SUBMITTED

#### THE EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

##### KOHL AMENDMENT NO. 1528

(Ordered to lie on the table.)

Mr. KOHL submitted an amendment intended to be proposed by him to the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

#### SEC. \_\_\_\_ ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CHILD CARE ASSISTANCE; FOREIGN TAX CREDIT CARRYOVERS.

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

#### “SEC. 45D. EMPLOYER-PROVIDED CHILD CARE CREDIT.

“(a) IN GENERAL.—For purposes of section 38, the employer-provided child care credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified child care expenditures of the taxpayer for such taxable year.

“(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed \$150,000.

“(c) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED CHILD CARE EXPENDITURE.—The term ‘qualified child care expenditure’ means any amount paid or incurred—

“(A) to acquire, construct, rehabilitate, or expand property—

“(i) which is to be used as part of a qualified child care facility of the taxpayer,

“(ii) with respect to which a deduction for depreciation (or amortization in lieu of depreciation) is allowable, and

“(iii) which does not constitute part of the principal residence (within the meaning of section 1034) of the taxpayer or any employee of the taxpayer,

“(B) for the operating costs of a qualified child care facility of the taxpayer, including costs related to the training of employees, to scholarship programs, and to the providing of increased compensation to employees with higher levels of child care training,

“(C) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, or

“(D) under a contract to provide child care resource and referral services to employees of the taxpayer.

“(2) QUALIFIED CHILD CARE FACILITY.—

“(A) IN GENERAL.—The term ‘qualified child care facility’ means a facility—

“(i) the principal use of which is to provide child care assistance, and

“(ii) which meets the requirements of all applicable laws and regulations of the State or local government in which it is located, including, but not limited to, the licensing of the facility as a child care facility.

Clause (i) shall not apply to a facility which is the principal residence (within the meaning of section 1034) of the operator of the facility.

“(B) SPECIAL RULES WITH RESPECT TO A TAXPAYER.—A facility shall not be treated as a qualified child care facility with respect to a taxpayer unless—

“(i) enrollment in the facility is open to employees of the taxpayer during the taxable year,

“(ii) the facility is not the principal trade or business of the taxpayer unless at least 30 percent of the enrollees of such facility are dependents of employees of the taxpayer, and

“(iii) the use of such facility (or the eligibility to use such facility) does not discriminate in favor of employees of the taxpayer who are highly compensated employees (within the meaning of section 414(q)).

“(d) RECAPTURE OF ACQUISITION AND CONSTRUCTION CREDIT.—

“(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care facility of the taxpayer, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

“(A) the applicable recapture percentage, and

“(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the qualified child care expenditures of the taxpayer described in subsection (c)(1)(A) with respect to such facility had been zero.

“(2) APPLICABLE RECAPTURE PERCENTAGE.—

“(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

“If the recapture event occurs in:	The applicable recapture percentage is:
Years 1-3 .....	100
Year 4 .....	85
Year 5 .....	70
Year 6 .....	55
Year 7 .....	40
Year 8 .....	25
Years 9 and 10 .....	10
Years 11 and thereafter	0.

“(B) YEARS.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care facility is placed in service by the taxpayer.

“(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term ‘recapture event’ means—

“(A) CESSATION OF OPERATION.—The cessation of the operation of the facility as a qualified child care facility.

“(B) CHANGE IN OWNERSHIP.—

“(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a taxpayer's interest in a qualified child care facility with respect to which the credit described in subsection (a) was allowable.

“(ii) AGREEMENT TO ASSUME RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

“(4) SPECIAL RULES.—

“(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

“(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

“(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified child care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

“(e) SPECIAL RULES.—For purposes of this section—

“(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

“(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

“(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

“(f) NO DOUBLE BENEFIT.—

“(1) REDUCTION IN BASIS.—For purposes of this subtitle—

“(A) IN GENERAL.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (c)(1)(A), the basis of such property shall be reduced by the amount of the credit so determined.

“(B) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under subparagraph (A), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term ‘recapture amount’ means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (d).

“(2) OTHER DEDUCTIONS AND CREDITS.—No deduction or credit shall be allowed under any other provision of this chapter with respect to the amount of the credit determined under this section.

“(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1999.”

(2) CONFORMING AMENDMENTS.—

(A) Section 38(b) of the Internal Revenue Code of 1986 is amended—

- (i) by striking out "plus" at the end of paragraph (11),
- (ii) by striking out the period at the end of paragraph (12), and inserting a comma and "plus", and
- (iii) by adding at the end the following new paragraph:

"(13) the employer-provided child care credit determined under section 45D."

(B) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45D. Employer-provided child care credit."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1996.

(b) MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.—

(1) IN GENERAL.—Subsection (c) of section 904 of the Internal Revenue Code of 1986 (relating to limitation on credit) is amended—

- (A) by striking "in the second preceding taxable year," and
- (B) by striking "or fifth" and inserting "fifth, sixth, or seventh".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to credits arising in taxable years beginning after December 31, 1997.

**DURBIN AMENDMENT NO. 1529**

(Ordered to lie on the table.)

Mr. DURBIN submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

Strike section 2 and insert:

**SEC. 2. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.**

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—

"(A) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined under the following table:

"For taxable years beginning in calendar year—	the applicable percentage is—
1998 .....	75
1999 .....	75
2000 .....	75
2001 .....	80
2002 .....	80
2003 .....	80
2004 .....	80
2005 .....	80
2006 and thereafter .....	100."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

**MOYNIHAN AMENDMENT NO. 1530**

(Ordered to lie on the table.)

Mr. MOYNIHAN submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

Strike section 2 and insert:

**SEC. 2. EXCLUSION FOR EDUCATIONAL ASSISTANCE TO GRADUATE STUDENTS.**

(A) IN GENERAL.—The last sentence of section 127(c)(1) of the Internal Revenue Code of 1986 (defining educational assistance) is amended by striking "; and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to expenses relating to courses beginning after July 31, 1997.

**GRAHAM AMENDMENT NO. 1531**

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

On page 3, between lines 9 and 10, insert:

"(C) DEPENDENT CARE EMPLOYMENT-RELATED EXPENSES.—Such term shall include employment-related expenses (as defined in section 21(b)(2)) for the care of a designated beneficiary who is a qualifying individual under section 21(b)(1)(A) with respect to the individual incurring such expenses. No credit shall be allowed under section 21 with respect to employment-related expenses paid out of the account to the extent such payment is not included in gross income by reason of subsection (d)(2)."

**MOSELEY-BRAUN AMENDMENTS NOS. 1532-1533**

(Ordered to lie on the table.)

Ms. MOSELEY-BRAUN submitted two amendments intended to be proposed by her to the bill, H.R. 2646, supra; as follows:

**AMENDMENT NO. 1532**

Beginning on page 2, strike line 3 and all that follows through page 6, line 10, and insert the following:

**SECTION 1. PROVISION OF ASSISTANCE FOR CONSTRUCTION AND RENOVATION OF EDUCATIONAL FACILITIES.**

(a) SHORT TITLE.—This section may be cited as the "Educational Facilities Improvement Act".

(b) AMENDMENT.—Title XII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8501 et seq.) is amended—

- (1) by repealing sections 12002 and 12003;
- (2) by redesignating sections 12001 and 12004 through 12013, as sections 12101 and 12102 through 12111, respectively;
- (3) by inserting after the title heading the following:

**"SEC. 12001. FINDINGS.**  
"The Congress finds the following:

"(1) The General Accounting Office performed a comprehensive survey of the Nation's public elementary and secondary school facilities, and found severe levels of disrepair in all areas of the United States.

"(2) The General Accounting Office concluded more than 14,000,000 children attend schools in need of extensive repair or replacement. Seven million children attend schools with life safety code violations. Twelve million children attend schools with leaky roofs.

"(3) The General Accounting Office found the problem of crumbling schools transcends demographic and geographic boundaries. At 38 percent of urban schools, 30 percent of rural schools, and 29 percent of suburban schools, at least one building is in need of extensive repair or should be completely replaced.

"(4) The condition of school facilities has a direct affect on the safety of students and teachers, and on the ability of students to learn.

"(5) Academic research has proven a direct correlation between the condition of school facilities and student achievement. At Georgetown University, researchers found students assigned to schools in poor condition can be expected to fall 10.9 percentage points below those in buildings in excellent condition. Similar studies have demonstrated up to a 20 percent improvement in test scores when students were moved from a poor facility to a new facility.

"(6) The General Accounting Office found most schools are not prepared to incorporate modern technology into the classroom. Forty-six percent of schools lack adequate electrical wiring to support the full-scale use of technology. More than a third of schools lack the requisite electrical power. Fifty-six percent of schools have insufficient phone lines for modems.

"(7) The Department of Education reported that elementary and secondary school enrollment, already at a record high level, will continue to grow during the period between 1996 and 2000, and that in order to accommodate this growth, the United States will need to build an additional 6,000 schools over this time period.

"(8) The General Accounting Office found it will cost \$112,000,000,000 just to bring schools up to good, overall condition, not including the cost of modernizing schools so the schools can utilize 21st century technology, nor including the cost of expansion to meet record enrollment levels.

"(9) State and local financing mechanisms have proven inadequate to meet the challenges facing today's aging school facilities. Large numbers of local educational agencies have difficulties securing financing for school facility improvement.

"(10) The Federal Government can support elementary and secondary school facilities, and can leverage additional funds for the improvement of elementary and secondary school facilities.

**"SEC. 12002. PURPOSE.**

"The purpose of this title is to help State and local authorities improve the quality of education at their public schools through the provision of Federal funds to enable the State and local authorities to meet the cost associated with the improvement of school facilities within their jurisdictions.

**"PART A—GENERAL INFRASTRUCTURE IMPROVEMENT GRANT PROGRAM";**

and

(4) by adding at the end the following:

**"PART B—CONSTRUCTION AND RENOVATION BOND SUBSIDY PROGRAM**

**"SEC. 12201. DEFINITIONS.**

"As used in this part:

"(1) EDUCATIONAL FACILITY.—The term 'educational facility' has the meaning given the term 'school' in section 12110.

"(2) LOCAL AREA.—The term 'local area' means the geographic area served by a local educational agency.

"(3) LOCAL BOND AUTHORITY.—The term 'local bond authority' means—

"(A) a local educational agency with authority to issue a bond for construction or renovation of educational facilities in a local area; and

"(B) a political subdivision of a State with authority to issue such a bond for an area including a local area.

"(4) POVERTY LINE.—The term 'poverty line' means the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with

section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)) applicable to a family of the size involved.

“(5) STATE.—The term ‘State’ means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

**“SEC. 12202. AUTHORIZATION OF PROGRAM.**

“(a) PROGRAM AUTHORITY.—Of the amount appropriated under section 12210 for a fiscal year and not reserved under subsection (b), the Secretary shall use—

“(1) 33 percent of such amount to award grants to local bond authorities for not more than 125 eligible local areas as provided for under section 12203; and

“(2) 67 percent of such amount to award grants to States as provided for under section 12204.

“(b) SPECIAL RULE.—The Secretary may reserve—

“(1) not more than 1.5 percent of the amount appropriated under section 12210 to provide assistance to Indian schools in accordance with the purpose of this title;

“(2) not more than 0.5 percent of the amount appropriated under section 12210 to provide assistance to Guam, the United States Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau to carry out the purpose of this title; and

“(3) not more than 0.1 percent of the amount appropriated under section 12210 to carry out section 12209.

**“SEC. 12203. DIRECT GRANTS TO LOCAL BOND AUTHORITIES.**

“(a) IN GENERAL.—The Secretary shall award a grant under section 12202(a)(1) to eligible local bond authorities to provide assistance for construction or renovation of educational facilities in a local area.

“(b) USE OF FUNDS.—The local bond authority shall use amounts received through a grant made under section 12202(a)(1) to pay a portion of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area.

“(c) ELIGIBILITY AND DETERMINATION.—

“(1) ELIGIBILITY.—To be eligible to receive a grant under section 12202(a)(1) for a local area, a local bond authority shall demonstrate the capacity to issue a bond for an area that includes 1 of the 125 local areas for which the Secretary has made a determination under paragraph (2).

“(2) DETERMINATION.—

“(A) MANDATORY.—The Secretary shall make a determination of the 100 local areas that have the highest numbers of children who are—

“(i) aged 5 to 17, inclusive; and

“(ii) members of families with incomes that do not exceed 100 percent of the poverty line.

“(B) DISCRETIONARY.—The Secretary may make a determination of 25 local areas, for which the Secretary has not made a determination under subparagraph (A), that have extraordinary needs for construction or renovation of educational facilities that the local bond authority serving the local area is unable to meet.

“(d) APPLICATION.—To be eligible to receive a grant under section 12202(a)(1), a local bond authority shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

“(1) an assurance that the application was developed in consultation with parents and classroom teachers;

“(2) information sufficient to enable the Secretary to make a determination under

subsection (c)(2) with respect to such local authority;

“(3) a description of the architectural, civil, structural, mechanical, or electrical construction or renovation to be supported with the assistance provided under this part;

“(4) a cost estimate of the proposed construction or renovation;

“(5) an identification of other resources, such as unused bonding capacity, that are available to carry out the activities for which assistance is requested under this part;

“(6) a description of how activities supported with funds provided under this part will promote energy conservation; and

“(7) such other information and assurances as the Secretary may require.

“(e) AWARD OF GRANTS.—

“(1) IN GENERAL.—In awarding grants under section 12202(a)(1), the Secretary shall give preference to a local bond authority based on—

“(A) the extent to which the local educational agency serving the local area involved or the educational facility for which the authority seeks a grant (as appropriate) meets the criteria described in section 12103(a);

“(B) the extent to which the educational facility is overcrowded; and

“(C) the extent to which assistance provided through the grant will be used to fund construction or renovation that, but for receipt of the grant, would not otherwise be possible to undertake.

“(2) AMOUNT OF ASSISTANCE.—

“(A) IN GENERAL.—In determining the amount of assistance for which local bond authorities are eligible under section 12202(a)(1), the Secretary shall—

“(i) give preference to a local bond authority based on the criteria specified in paragraph (1); and

“(ii) consider—

“(I) the amount of the cost estimate contained in the application of the local bond authority under subsection (d)(4);

“(II) the relative size of the local area served by the local bond authority; and

“(III) any other factors determined to be appropriate by the Secretary.

“(B) MAXIMUM AMOUNT OF ASSISTANCE.—A local bond authority shall be eligible for assistance under section 12202(a)(1) in an amount that does not exceed the appropriate percentage under section 12204(f)(3) of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area involved.

**“SEC. 12204. GRANTS TO STATES.**

“(a) IN GENERAL.—The Secretary shall award a grant under section 12202(a)(2) to each eligible State to provide assistance to the State, or local bond authorities in the State, for construction and renovation of educational facilities in local areas.

“(b) USE OF FUNDS.—The State shall use amounts received through a grant made under section 12202(a)(2)—

“(1) to pay a portion of the interest costs applicable to any State bond issued to finance an activity described in section 12205 with respect to the local areas; or

“(2) to provide assistance to local bond authorities in the State to pay a portion of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local areas.

“(c) AMOUNT OF GRANT TO STATE.—

“(1) IN GENERAL.—From the amount available for grants under section 12202(a)(2), the Secretary shall award a grant to each eligible State that is equal to the total of—

“(A) a sum that bears the same relationship to 50 percent of such amount as the

total amount of funds made available for all eligible local educational agencies in the State under part A of title I for such year bears to the total amount of funds made available for all eligible local educational agencies in all States under such part for such year; and

“(B) a sum that bears the same relationship to 50 percent of such amount as the total amount of funds made available for all eligible local educational agencies in the State under title VI for such year bears to the total amount of funds made available for all eligible local educational agencies in all States under such title for such year.

“(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—For the purpose of paragraph (1) the term ‘eligible local educational agency’ means a local educational agency that does not serve a local area for which an eligible local bond authority received a grant under section 12203.

“(d) STATE APPLICATIONS REQUIRED.—To be eligible to receive a grant under section 12202(a)(2), a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require. Such application shall contain—

“(1) a description of the process the State will use to determine which local bond authorities will receive assistance under subsection (b)(2).

“(2) an assurance that grant funds under this section will be used to increase the amount of school construction or renovation in the State for a fiscal year compared to such amount in the State for the preceding fiscal years.

“(e) ADMINISTERING AGENCY.—

“(1) IN GENERAL.—The State agency with authority to issue bonds for the construction or renovation of educational facilities, or with the authority to otherwise finance such construction or renovation, shall administer the amount received through the grant.

“(2) SPECIAL RULE.—If no agency described in paragraph (1) exists, or if there is more than one such agency, then the chief executive officer of the State and the chief State school officer shall designate a State entity or individual to administer the amounts received through the grant.

“(f) ASSISTANCE TO LOCAL BOND AUTHORITIES.—

“(1) IN GENERAL.—To be eligible to receive assistance from a State under this section, a local bond authority shall prepare and submit to the State agency designated under subsection (e) an application at such time, in such manner, and containing such information as the State agency may require, including the information described in section 12203(d).

“(2) CRITERIA.—In awarding grants under this section, the State agency shall give preference to a local bond authority based on—

“(A) the extent to which the local educational agency serving the local area involved or the educational facility for which the authority seeks the grant (as appropriate) meets the criteria described in section 12103(a);

“(B) the extent to which the educational facility is overcrowded; and

“(C) the extent to which assistance provided through the grant will be used to fund construction or renovation that, but for receipt of the grant, would not otherwise be possible to undertake.

“(3) AMOUNT OF ASSISTANCE.—A local bond authority seeking assistance for a local area served by a local educational agency described in—

“(A) clause (i)(I) or clause (ii)(I) of section 1125(c)(2)(A), shall be eligible for assistance

in an amount that does not exceed 10 percent;

“(B) clause (i)(II) or clause (ii)(II) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 20 percent;

“(C) clause (i)(III) or clause (ii)(III) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 30 percent;

“(D) clause (i)(IV) or clause (ii)(IV) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 40 percent; and

“(E) clause (i)(V) or clause (ii)(V) of section 1125(c)(2)(A), shall be eligible for assistance in an amount that does not exceed 50 percent;

of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area.

“(g) ASSISTANCE TO STATE.—

“(1) IN GENERAL.—If a State issues a bond to finance an activity described in section 12205 with respect to local areas, the State shall be eligible for assistance in an amount that does not exceed the percentage calculated under the formula described in paragraph (2) of the interest costs applicable to the State bond with respect to the local areas.

“(2) FORMULA.—The Secretary shall develop a formula for determining the percentage referred to in paragraph (1). The formula shall specify that the percentage shall consist of a weighted average of the percentages referred to in subparagraphs (A) through (E) of subsection (f)(3) for the local areas involved.

**“SEC. 12205. AUTHORIZED ACTIVITIES.**

“An activity described in this section is a project of significant size and scope that consists of—

“(1) the repair or upgrading of classrooms or structures related to academic learning, including the repair of leaking roofs, crumbling walls, inadequate plumbing, poor ventilation equipment, and inadequate heating or light equipment;

“(2) an activity to increase physical safety at the educational facility involved;

“(3) an activity to enhance the educational facility involved to provide access for students, teachers, and other individuals with disabilities;

“(4) an activity to improve the energy efficiency of the educational facility involved;

“(5) an activity to address environmental hazards at the educational facility involved, such as poor ventilation, indoor air quality, or lighting;

“(6) the provision of basic infrastructure that facilitates educational technology, such as communications outlets, electrical systems, power outlets, or a communication closet;

“(7) the construction of new schools to meet the needs imposed by enrollment growth; and

“(8) any other activity the Secretary determines achieves the purpose of this title.

**“SEC. 12206. STATE GRANT WAIVERS.**

“(a) WAIVER FOR STATE ISSUANCE OF BOND.—

“(1) IN GENERAL.—A State that issues a bond described in section 12204(b)(1) with respect to a local area may request that the Secretary waive the limits described in section 12204(f)(3) for the local area, in calculating the amount of assistance the State may receive under section 12204(g). The State may request the waiver only if no local entity is able, for one of the reasons described in subparagraphs (A) through (F) of paragraph (2), to issue bonds on behalf of the local area. Under such a waiver, the Secretary may permit the State to use amounts received through a grant made under section

12202(a)(2) to pay for not more than 80 percent of the interest costs applicable to the State bond with respect to the local area.

“(2) DEMONSTRATION BY STATE.—To be eligible to receive a waiver under this subsection, a State shall demonstrate to the satisfaction of the Secretary that—

“(A) the local bond authority serving the local area has reached a limit on its borrowing authority as a result of a debt ceiling or property tax cap;

“(B) the local area has a high percentage of low-income residents, or an unusually high property tax rate;

“(C) the demographic composition of the local area will not support additional school spending;

“(D) the local bond authority has a history of failed attempts to pass bond referenda;

“(E) the local area contains a significant percentage of Federally-owned land that is not subject to local taxation; or

“(F) for another reason, no local entity is able to issue bonds on behalf of the local area.

“(b) WAIVER FOR OTHER FINANCING SOURCES.—

“(1) IN GENERAL.—A State may request that the Secretary waive the use requirements of section 12204(b) for a local bond authority to permit the State to provide assistance to the local bond authority to finance construction or renovation by means other than through the issuance of bonds.

“(2) USE OF FUNDS.—A State that receives a waiver granted under this subsection may provide assistance to a local bond authority in accordance with the criteria described in section 12204(f)(2) to enable the local bond authority to repay the costs incurred by the local bond authority in financing an activity described in section 12205. The local bond authority shall be eligible to receive the amount of such assistance that the Secretary estimates the local bond authority would be eligible to receive under section 12204(f)(3) if the construction or renovation were financed through the issuance of a bond.

“(3) MATCHING REQUIREMENT.—The State shall make available to the local bond authority (directly or through donations from public or private entities) non-Federal contributions in an amount equal to not less than \$1 for every \$1 of Federal funds provided to the local bond authority through the grant.

“(c) WAIVER FOR OTHER USES.—

“(1) IN GENERAL.—A State may request that the Secretary waive the use requirements of section 12204(b) for a State to permit the State to carry out activities that achieve the purpose of this title.

“(2) DEMONSTRATION BY STATE.—To be eligible to receive a waiver under this subsection, a State shall demonstrate to the satisfaction of the Secretary that the use of assistance provided under the waiver—

“(A) will result in an equal or greater amount of construction or renovation of educational facilities than the provision of assistance to defray the interest costs applicable to a bond for such construction or renovation; and

“(B) will be used to fund activities that are effective in carrying out the activities described in section 12205, such as—

“(i) the capitalization of a revolving loan fund for such construction or renovation;

“(ii) the use of funds for reinsurance or guarantees with respect to the financing of such construction or renovation;

“(iii) the creation of a mechanism to leverage private sector resources for such construction or renovation;

“(iv) the capitalization of authorities similar to State Infrastructure Banks to leverage additional funds for such construction or renovation; or

“(v) any other activity the Secretary determines achieves the purpose of this title.

“(d) LOCAL BOND AUTHORITY WAIVER.—

“(1) IN GENERAL.—A local bond authority may request the Secretary waive the use requirements of section 12203(b) for a local head authority to permit the authority to finance construction or renovation of educational facilities by means other than through use of bonds.

“(2) DEMONSTRATION.—To be eligible to receive a waiver under this subsection, a local bond authority shall demonstrate that the amounts made available through a grant under the waiver will result in an equal or greater amount of construction or renovation of educational facilities than the provision of assistance to defray the interest costs applicable to a bond for such construction or renovation.

“(e) REQUEST FOR WAIVER.—A State or local bond authority that desires a waiver under this section shall submit a waiver request to the Secretary that—

“(1) identifies the type of waiver requested;

“(2) with respect to a waiver described in subsection (a), (c), or (d), makes the demonstration described in subsection (a)(2), (c)(2), or (d)(2), respectively;

“(3) describes the manner in which the waiver will further the purpose of this title; and

“(4) describes the use of assistance provided under such waiver.

“(f) ACTION BY SECRETARY.—The Secretary shall make a determination with respect to a request submitted under subsection (d) not later than 90 days after the date on which such request was submitted.

“(g) GENERAL REQUIREMENTS.—

“(1) STATES.—In the case of a waiver request submitted by a State under this section, the State shall—

“(A) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

“(B) submit the comments to the Secretary; and

“(C) provide notice and information to the public regarding the waiver request in the manner that the applying State customarily provides similar notices and information to the public.

“(2) LOCAL BOND AUTHORITIES.—In the case of a waiver request submitted by a local bond authority under this section, the local bond authority shall—

“(A) provide the affected local educational agency with notice and a reasonable opportunity to comment on the request;

“(B) submit the comments to the Secretary; and

“(C) provide notice and information to the public regarding the waiver request in the manner that the applying local bond authority customarily provides similar notices and information to the public.

**“SEC. 12207. GENERAL PROVISIONS.**

“(a) FAILURE TO ISSUE BONDS.—

“(1) STATES.—If a State that receives assistance under this part fails to issue a bond for which the assistance is provided, the amount of such assistance shall be made available to the State as provided for under section 12204, during the first fiscal year following the date of repayment.

“(2) LOCAL BOND AUTHORITIES AND LOCAL AREAS.—If a local bond authority that receives assistance under this part fails to issue a bond, or a local area that receives such assistance fails to become the beneficiary of a bond, for which the assistance is provided, the amount of such assistance—

“(A) in the case of assistance received under section 12202(a)(1), shall be repaid to

the Secretary and made available as provided under section 12203; and

“(B) in the case of assistance received under section 12202(a)(2), shall be repaid to the State and made available as provided for under section 12204.

“(b) LIABILITY OF THE FEDERAL GOVERNMENT.—The Secretary shall not be liable for any debt incurred by a State or local bond authority for which assistance is provided under this part. If such assistance is used by a local educational agency to subsidize a debt other than the issuance of a bond, the Secretary shall have no obligation to repay the lending institution to whom the debt is owed if the local educational agency defaults.

**“SEC. 12208. FAIR WAGES.**

“The provisions of section 12107 shall apply with respect to all laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part using assistance provided under this part.

**“SEC. 12209. REPORT.**

“From amounts reserved under section 12202(b)(3) for each fiscal year the Secretary shall—

“(1) collect such data as the Secretary determines necessary at the school, local, and State levels;

“(2) conduct studies and evaluations, including national studies and evaluations, in order to—

“(A) monitor the progress of activities supported with funds provided under this part; and

“(B) evaluate the state of United States educational facilities; and

“(3) report to the appropriate committees of Congress regarding the findings of the studies and evaluations described in paragraph (2).

**“SEC. 12210. FUNDING.**

“(a) IN GENERAL.—There are appropriated to carry out this part \$827,000,000 for fiscal year 1998, \$1,388,000,000 for fiscal year 1999, \$608,000,000 for fiscal year 2000, \$141,000,000 for fiscal year 2001, and \$148,000,000 for fiscal year 2002.

“(b) ENTITLEMENT.—Subject to subsection (a), each State or local bond authority awarded a grant under this part shall be entitled to payments under the grant.

“(c) AVAILABILITY.—Any amounts appropriated pursuant to the authority of subsection (a) shall remain available until expended.”

(c) CONFORMING AMENDMENTS.—

(1) CROSS REFERENCES.—Part A of title XII of the Elementary and Secondary Education Act of 1965 (as redesignated by subsection (b)(3)) is amended—

(A) in section 12102(a) (as redesignated by subsection (b)(2))—

(i) in paragraph (1)—

(I) by striking “12013” and inserting “12111”;

(II) by striking “12005” and inserting “12103”;

(III) by striking “12007” and inserting “12105”;

(ii) in paragraph (2), by striking “12013” and inserting “12111”;

(B) in section 12110(3)(C) (as redesignated by subsection (b)(2)), by striking “12006” and inserting “12104”.

(2) CONFORMING AMENDMENTS.—Part A of title XII of the Elementary and Secondary Education Act of 1965 (as redesignated by subsection (b)(3)) (20 U.S.C. 8501 et seq.) is further amended—

(A) in section 12101 (as redesignated by subsection (b)(2)), by striking “This title” and inserting “This part”;

(B) in sections 12102(a)(2), 12102(b)(1), 12103(a), 12103(b), 12103(b)(2), 12103(c), 12103(d), 12104(a), 12104(b)(2), 12104(b)(3), 12104(b)(4), 12104(b)(6), 12104(b)(7), 12105(a), 12105(b), 12106(a), 12106(b), 12106(c), 12106(c)(1), 12106(c)(7), 12106(e), 12107, 12108(a)(1), 12108(a)(2), 12108(b)(1), 12108(b)(2), 12108(b)(3), 12108(b)(4), 12109(2)(A), and 12110 (as redesignated by subsection (b)(2)), by striking “this title” each place it appears and inserting “this part”.

**SEC. 2. OVERRULING OF SCHMIDT BAKING COMPANY CASE.**

AMENDMENT No. 1533

Beginning on page 2, line 3, strike all through page 6, line 9, and insert:

**SECTION 1. PURPOSE.**

It is the purpose of this Act to help school districts to improve their crumbling and overcrowded school facilities through the use of Federal tax credits.

**SEC. 2. TAX CREDIT FOR PUBLIC ELEMENTARY AND SECONDARY SCHOOL CONSTRUCTION.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to general business credits) is amended by adding at the end the following new section:

**“SEC. 45D. CREDIT FOR PUBLIC ELEMENTARY AND SECONDARY SCHOOL CONSTRUCTION.**

“(a) IN GENERAL.—For purposes of section 38, the amount of the school construction credit determined under this section for an eligible taxpayer for any taxable year with respect to an eligible school construction project shall be an amount equal to the lesser of—

“(1) the applicable percentage of the qualified school construction costs, or

“(2) the excess (if any) of—

“(A) the taxpayer’s allocable school construction amount with respect to such project under subsection (d), over

“(B) any portion of such allocable amount used under this section for preceding taxable years.

“(b) ELIGIBLE TAXPAYER; ELIGIBLE SCHOOL CONSTRUCTION PROJECT.—For purposes of this section—

“(1) ELIGIBLE TAXPAYER.—The term ‘eligible taxpayer’ means any person which—

“(A) has entered into a contract with a local educational agency for the performance of construction or related activities in connection with an eligible school construction project, and

“(B) has received an allocable school construction amount with respect to such contract under subsection (d).

“(2) ELIGIBLE SCHOOL CONSTRUCTION PROJECT.—

“(A) IN GENERAL.—The term ‘eligible school construction project’ means any project related to a public elementary school or secondary school that is conducted for 1 or more of the following purposes:

“(i) Construction of school facilities in order to ensure the health and safety of all students, which may include—

“(I) the removal of environmental hazards,

“(II) improvements in air quality, plumbing, lighting, heating and air conditioning, electrical systems, or basic school infrastructure, and

“(III) building improvements that increase school safety.

“(ii) Construction activities needed to meet the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) or of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

“(iii) Construction activities that increase the energy efficiency of school facilities.

“(iv) Construction that facilitates the use of modern educational technologies.

“(v) Construction of new school facilities that are needed to accommodate growth in school enrollments.

“(vi) Such other construction as the Secretary of Education determines appropriate.

“(B) SPECIAL RULES.—For purposes of this paragraph—

“(i) the term ‘construction’ includes reconstruction, renovation, or other substantial rehabilitation, and

“(ii) an eligible school construction project shall not include the costs of acquiring land (or any costs related to such acquisition).

“(c) QUALIFIED SCHOOL CONSTRUCTION COSTS; APPLICABLE PERCENTAGE.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified school construction costs’ means the aggregate amounts paid to an eligible taxpayer during the taxable year under the contract described in subsection (b)(1).

“(2) APPLICABLE PERCENTAGE.—The term ‘applicable percentage’ means, in the case of an eligible school construction project related to a local educational agency, the higher of the following percentages:

“(A) If the local educational agency has a percentage or number of children described in clause (i)(I) or (ii)(I) of section 1125(c)(2)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6335(c)(2)(A)), the applicable percentage is 10 percent.

“(B) If the local educational agency has a percentage or number of children described in clause (i)(II) or (ii)(II) of such section, the applicable percentage is 15 percent.

“(C) If the local educational agency has a percentage or number of children described in clause (i)(III) or (ii)(III) of such section, the applicable percentage is 20 percent.

“(D) If the local educational agency has a percentage or number of children described in clause (i)(IV) or (ii)(IV) of such section, the applicable percentage is 25 percent.

“(E) If the local educational agency has a percentage or number of children described in clause (i)(V) or (ii)(V) of such section, the applicable percentage is 30 percent.

“(d) ALLOCABLE AMOUNT.—For purposes of this section—

“(1) IN GENERAL.—Subject to paragraph (3), a local educational agency may allocate to any person a school construction amount with respect to any eligible school construction project.

“(2) TIME FOR MAKING ALLOCATION.—An allocation shall be taken into account under paragraph (1) only if the allocation is made at the time the contract described in subsection (b)(1) is entered into (or such later time as the Secretary may by regulation allow).

“(3) COORDINATION WITH STATE PROGRAM.—A local educational agency may not allocate school construction amounts for any fiscal year—

“(A) which in the aggregate exceed the amount of the State school construction ceiling allocated to such agency for such fiscal year under subsection (e), or

“(B) if such allocation is inconsistent with any specific allocation required by the State or this section.

“(e) STATE CEILINGS AND ALLOCATION.—

“(1) IN GENERAL.—A State educational agency shall allocate to local educational agencies within the State for any fiscal year a portion of the State school construction ceiling for such year. Such allocations shall be consistent with the State application which has been approved under subsection (f) and with any requirement of this section.

“(2) STATE SCHOOL CONSTRUCTION CEILING.—

“(A) IN GENERAL.—The State school construction ceiling for any State for any fiscal year shall be an amount equal to the State’s

allocable share of the national school construction amount.

“(B) STATE’S ALLOCABLE SHARE.—The State’s allocable share of the national school construction amount for a fiscal year shall bear the same relation to the national school construction amount for the fiscal year as the amount the State received under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the preceding fiscal year bears to the total amount received by all States under such section for such preceding fiscal year.

“(C) NATIONAL SCHOOL CONSTRUCTION AMOUNT.—The national school construction amount for any fiscal year is the lesser of—

- “(i) in the case of—
  - “(I) fiscal year 1998, \$827,000,000,
  - “(II) fiscal year 1999, \$1,388,000,000, plus any amount not allocated under this section in any preceding fiscal year,
  - “(III) fiscal year 2000, \$608,000,000, plus any such amount,
  - “(IV) fiscal year 2001, \$141,000,000, plus any such amount, and
  - “(V) fiscal year 2002, \$148,000,000, plus any such amount, or
  - “(ii) the amount made available for such year under the School Infrastructure Improvement Trust Fund established under section 9512,

reduced by any amount described in paragraph (3).

“(3) SPECIAL ALLOCATIONS FOR INDIAN TRIBES AND TERRITORIES.—

“(A) ALLOCATION TO INDIAN TRIBES.—The national school construction amount under paragraph (2)(C) shall be reduced by 1.5 percent for each fiscal year and the Secretary of Interior shall allocate such amount among Indian tribes according to their respective need for assistance under this section.

“(B) ALLOCATION TO TERRITORIES.—The national school construction amount under paragraph (2)(C) shall be reduced by 0.5 percent for each fiscal year and the Secretary of Education shall allocate such amount among the territories according to their respective need for assistance under this section.

“(4) REALLOCATION.—If the Secretary of Education determines that a State is not making satisfactory progress in carrying out the State’s plan for the use of funds allocated to the State under this section, the Secretary may reallocate all or part of the State school construction ceiling to 1 or more other States that are making satisfactory progress.

“(e) STATE APPLICATION.—

“(1) IN GENERAL.—A State educational agency shall not be eligible to allocate any amount to a local educational agency for any fiscal year unless the agency submits to the Secretary of Education (and the Secretary approves) an application containing such information as the Secretary may require, including—

“(A) an estimate of the overall condition of school facilities in the State, including the projected cost of upgrading schools to adequate condition;

“(B) an estimate of the capacity of the schools in the State to house projected student enrollments, including the projected cost of expanding school capacity to meet rising student enrollment;

“(C) the extent to which the schools in the State have the basic infrastructure elements necessary to incorporate modern technology into their classrooms, including the projected cost of upgrading school infrastructure to enable the use of modern technology in classrooms;

“(D) the extent to which the schools in the State offer the physical infrastructure needed to provide a high-quality education to all students; and

“(E) an identification of the State agency that will allocate credit amounts to local educational agencies within the State.

“(2) SPECIFIC ITEMS IN ALLOCATION.—The State shall include in the State’s application the process by which the State will allocate the credits to local educational agencies within the State. The State shall consider in its allocation process the extent to which—

“(A) the school district served by the local educational agency has—

“(i) a high number or percentage of the total number of children aged 5 to 17, inclusive, in the State who are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); or

“(ii) a high percentage of the total number of low-income residents in the State;

“(B) the local educational agency lacks the fiscal capacity, including the ability to raise funds through the full use of such agency’s bonding capacity and otherwise, to undertake the eligible school construction project without assistance;

“(C) the local area makes an unusually high local tax effort, or has a history of failed attempts to pass bond referenda;

“(D) the local area contains a significant percentage of federally owned land that is not subject to local taxation;

“(E) the threat the condition of the physical facility poses to the safety and well-being of students;

“(F) there is a demonstrated need for the construction, reconstruction, renovation, or rehabilitation based on the condition of the facility;

“(G) the extent to which the facility is overcrowded; and

“(H) the extent to which assistance provided will be used to support eligible school construction projects that would not otherwise be possible to undertake.

“(3) IDENTIFICATION OF AREAS.—The State shall include in the State’s application the process by which the State will identify the areas of greatest needs (whether those areas are in large urban centers, pockets of rural poverty, fast-growing suburbs, or elsewhere) and how the State intends to meet the needs of those areas.

“(4) ALLOCATIONS ON BASIS OF APPLICATION.—The Secretary of Education shall evaluate applications submitted under this subsection and shall approve any such application which meets the requirements of this section.

“(g) REQUIRED ALLOCATIONS.—Notwithstanding any process for allocation under a State application under subsection (f), in the case of a State which contains 1 or more of the 100 school districts within the United States which contains the largest number of poor children (as determined by the Secretary of Education), the State shall allocate each fiscal year to the local educational agency serving such districts that portion of the State school construction ceiling which bears the same ratio to such ceiling as the number of children in such district for the preceding fiscal year who are counted for purposes of section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)) bears to the total number of children in such State who are so counted.

“(h) DEFINITIONS.—For purposes of this section—

“(1) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.—The terms ‘elementary school’, ‘local educational agency’, ‘secondary school’, and ‘State educational agency’ have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

“(2) TERRITORIES.—The term ‘territories’ means the United States Virgin Islands, Guam, American Samoa, the Commonwealth

of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

“(3) STATE.—The term ‘State’ means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.”

(b) INCLUSION IN GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Section 38(b) of the Internal Revenue Code of 1986 is amended by striking “plus” at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting “, plus”, and by adding at the end the following new paragraph:

“(13) the school construction credit determined under section 45D(a).”

(2) TRANSITION RULE.—Section 39(d) of such Code is amended by adding at the end the following new paragraph:

“(8) NO CARRYBACK OF SECTION 45D CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the school construction credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D.”

(c) ESTABLISHMENT OF SCHOOL INFRASTRUCTURE IMPROVEMENT TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 9512. SCHOOL INFRASTRUCTURE IMPROVEMENT TRUST FUND.

“(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the ‘School Infrastructure Improvement Trust Fund’, consisting of such amounts as may be credited or paid to such Trust Fund as provided in this section or section 9602(b).

“(b) TRANSFERS TO TRUST FUND.—There is appropriated to the Trust Fund for fiscal year—

- “(1) 1998, \$827,000,000,
- “(2) 1999, \$1,388,000,000,
- “(3) 2000, \$608,000,000,
- “(4) 2001, \$141,000,000, and
- “(5) 2002, \$148,000,000.

“(c) EXPENDITURES FROM TRUST FUND.—

Amounts in the Trust Fund shall be transferred to the general fund of the Treasury at such times as the Secretary determines appropriate to offset any decrease in Federal revenues by reason of credits allowed under section 38 which are attributable to the school construction credit determined under section 45D.”

(2) CONFORMING AMENDMENT.—The table of section for subchapter A of chapter 98 of such Code is amended by adding at the end the following new item:

“Sec. 9512. School Infrastructure Improvement Trust Fund.

(d) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 45D. Credit for public elementary and secondary school construction.”

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

#### LOTT AMENDMENT NO. 1534

(Ordered to lie on the table.)

Mr. LOTT submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

Strike all after "section" and insert "1. short title.

This Act may be cited as the "Education Savings Act for Public and Private Schools".  
**SEC. 2. MODIFICATIONS TO EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.**

(a) TAX-FREE EXPENDITURES FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.—

(1) IN GENERAL.—Section 530(b)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

"(2) QUALIFIED EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified education expenses' means—

"(i) qualified higher education expenses (as defined in section 529(e)(3)), and

"(ii) qualified elementary and secondary education expenses (as defined in paragraph (4)) but only with respect to amounts in the account which are attributable to contributions for any taxable year ending before January 1, 2001, and earnings on such contributions.

Such expenses shall be reduced as provided in section 25A(g)(2).

"(B) QUALIFIED STATE TUITION PROGRAMS.—Such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified State tuition program (as defined in section 529(b)) for the benefit of the beneficiary of the account."

(2) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—Section 530(b) of such Code is amended by adding at the end the following new paragraph:

"(4) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means tuition, fees, tutoring, special needs services, books, supplies, computer equipment (including related software and services) and other equipment, transportation, and supplementary expenses required for the enrollment or attendance of the designated beneficiary of the trust at a public, private, or religious school.

"(B) SPECIAL RULE FOR HOMESCHOOLING.—Such term shall include expenses described in subparagraph (A) required for education provided for homeschooling if the requirements of any applicable State or local law are met with respect to such education.

"(C) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (through grade 12), as determined under State law."

(3) CONFORMING AMENDMENTS.—Subsections (b)(1) and (d)(2) of section 530 of such Code are each amended by striking "higher" each place it appears in the text and heading thereof.

(b) TEMPORARY INCREASE IN MAXIMUM ANNUAL CONTRIBUTIONS.—

(1) IN GENERAL.—Section 530(b)(1)(A)(iii) of the Internal Revenue Code of 1986 is amended by striking "\$500" and inserting "the contribution limit for such taxable year".

(2) CONTRIBUTION LIMIT.—Section 530(b) of such Code is amended by adding at the end the following new paragraph:

"(4) CONTRIBUTION LIMIT.—The term 'contribution limit' means \$2,500 (\$500 in the case of any taxable year ending after December 31, 2000)."

(3) CONFORMING AMENDMENTS.—

(A) Section 530(d)(4)(C) of such Code is amended by striking "\$500" and inserting "the contribution limit for such taxable year".

(B) Section 4973(e)(1)(A) of such Code is amended by striking "\$500" and inserting "the contribution limit (as defined in section 530(b)(4)) for such taxable year".

(c) WAIVER OF AGE LIMITATIONS FOR CHILDREN WITH SPECIAL NEEDS.—Paragraph (1) of section 530(b) of the Internal Revenue Code

of 1986 is amended by adding at the end the following flush sentence:

"The age limitations in the preceding sentence shall not apply to any designated beneficiary with special needs (as determined under regulations prescribed by the Secretary)."

(d) CORPORATIONS PERMITTED TO CONTRIBUTE TO ACCOUNTS.—Paragraph (1) of section 530(c) of the Internal Revenue Code of 1986 is amended by striking "The maximum amount which a contributor" and inserting "In the case of a contributor who is an individual, the maximum amount the contributor"

(e) EFFECTIVE DATE; REFERENCES.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 213 of the Taxpayer Relief Act of 1997.

(2) REFERENCES.—Any reference in this section to any section of the Internal Revenue Code of 1986 shall be a reference to such section as added by the Taxpayer Relief Act of 1997.

**SEC. 3. OVERRULING OF SCHMIDT BAKING COMPANY CASE.**

(a) IN GENERAL.—The Internal Revenue Code of 1986 shall be applied without regard to the result reached in the case of *Schmidt Baking Company, Inc. v. Commissioner of Internal Revenue*, 107 T.C. 271 (1996).

(b) REGULATIONS.—The Secretary of the Treasury or the Secretary's delegate shall prescribe regulations to reflect subsection (a).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsections (a) and (b) shall apply to taxable years ending after October 8, 1997.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for its first taxable year ending after October 8, 1997—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first taxable year.

#### MCCONNELL (AND GRAHAM) AMENDMENT NO. 1535

(Ordered to lie on the table.)

Mr. MCCONNELL (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by them to the bill, H.R. 2646, supra; as follows:

At the appropriate place in the bill, insert the following new sections:

**SEC. \_\_\_\_ EXCLUSION FROM GROSS INCOME OF EDUCATION DISTRIBUTIONS FROM QUALIFIED STATE TUITION PROGRAMS.**

(a) ALLOWANCE OF EXCLUSION.—

(1) IN GENERAL.—Subparagraph (B) of section 529(c)(3) of the Internal Revenue Code of 1986 (relating to distributions) is amended to read as follows:

"(B) QUALIFIED HIGHER EDUCATION DISTRIBUTIONS.—In the case of a qualified higher education distribution under subsection (f)—

"(i) subparagraph (A) shall not apply, and

"(ii) no amount shall be includible in gross income with respect to such distribution."

(2) QUALIFIED HIGHER EDUCATION DISTRIBUTION DEFINED.—Section 529 of such Code (relating to qualified State tuition programs) is amended by adding at the end the following new subsection:

"(f) QUALIFIED HIGHER EDUCATION DISTRIBUTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified higher education distribution' means any dis-

tribution (or portion thereof) which constitutes a payment directly to an eligible educational institution for qualified higher education expenses of the designated beneficiary for enrollment or attendance at such institution.

"(2) ROOM AND BOARD FOR STUDENTS LIVING OFF CAMPUS.—

"(A) IN GENERAL.—The term 'qualified higher education distribution' includes distributions not described in paragraph (1) to the extent that the amount of such distributions for the taxable year does not exceed the amount treated as qualified higher education expenses of the designated beneficiary under subsection (e)(3)(B)(i)(II).

"(B) RESTRICTIONS.—Subparagraph (A) shall only apply with respect to distributions for any academic period if—

"(i) distributions described in paragraph (1) are made for such period for expenses other than room and board, and

"(ii) the designated beneficiary certifies to the qualified State tuition program that the beneficiary resides in a dwelling unit not operated or maintained by an eligible educational institution.

"(3) EXCLUSION ELECTIVE; LIMITATION TO ONE PROGRAM.—

"(A) ELECTION.—This subsection shall apply for a taxable year only if the designated beneficiary elects its application.

"(B) LIMITATION TO ONE PROGRAM.—This subsection shall apply only to distributions from the qualified State tuition program designated by the beneficiary in the first election taking effect under subparagraph (A). Such designation, once made, shall be irrevocable.

"(4) AGGREGATION.—All distributions from the qualified State tuition program designated under paragraph (3)(B) shall be treated as 1 distribution for purposes of this subsection."

(3) ROOM AND BOARD.—Section 529(e)(3)(B) of such Code is amended to read as follows:

"(B) ROOM AND BOARD INCLUDED FOR STUDENTS WHO ARE AT LEAST HALF-TIME.—

"(i) IN GENERAL.—In the case of a designated beneficiary who is an eligible student (as defined in such section 25A(b)(3)) for any academic period, the term 'qualified higher education expenses' shall include—

"(I) amounts paid directly to an eligible educational institution for room and board furnished to the beneficiary during such academic period, or

"(II) if the beneficiary is not residing in a dwelling unit operated or maintained by the eligible educational institution, reasonable costs incurred by the beneficiary for room and board during such academic period.

"(ii) LIMITATIONS ON OFF-CAMPUS ROOM AND BOARD.—

"(I) DOLLAR LIMIT.—The aggregate costs which may be taken into account under clause (i)(II) for any taxable year shall not exceed \$4,500.

"(II) NO MORE THAN 4 ACADEMIC YEARS TAKEN INTO ACCOUNT.—Costs may be taken into account under clause (i)(II) only for that number of academic periods as is equivalent to 4 academic years. Such number shall be reduced by the number of academic periods for which amounts were previously taken into account under clause (i)(I)."

(b) LIMIT ON AGGREGATE CONTRIBUTIONS.—

(1) IN GENERAL.—Section 529(b)(7) of the Internal Revenue Code of 1986 is amended to read as follows:

"(7) AGGREGATE LIMIT ON CONTRIBUTIONS.—A program shall not be treated as a qualified State tuition program if it allows aggregate contributions (including rollover contributions) on behalf of a designated beneficiary to exceed \$35,200."

(2) TAX ON EXCESS CONTRIBUTIONS.—

(A) IN GENERAL.—Section 4973 of such Code is amended by adding at the end the following new subsection:

“(g) EXCESS CONTRIBUTIONS TO QUALIFIED STATE TUITION PROGRAMS.—

“(1) IN GENERAL.—In the case of a designated beneficiary under 1 or more qualified State tuition programs (as defined in section 529(b)), the amount by which the contributions on behalf of such beneficiary for such taxable year, when added to the aggregate contributions on behalf of such beneficiary for all preceding taxable years, exceeds the dollar limit in effect under section 529(b)(7) for calendar year in which the taxable year begins.

“(2) SPECIAL RULES.—For purposes of paragraph (1), the following contributions shall not be taken into account:

“(A) Any contribution which is distributed out of the qualified State tuition program in a distribution to which section 529(g)(2) applies.

“(B) Any rollover contribution.”

(B) CONFORMING AMENDMENTS.—Section 4973(a) is amended—

(i) by striking “or” at the end of paragraph (3), by inserting “or” at the end of paragraph (5), and by inserting after paragraph (4) the following new paragraph:

“(5) a qualified State tuition program (as defined in section 529).”

(ii) by striking “accounts or annuities” and inserting “accounts, annuities, or programs”, and

(iii) by striking “account or annuity” and inserting “account, annuity, or program”.

(C) COMPLIANCE PROVISIONS.—

(1) ADDITIONAL TAX ON AMOUNTS NOT USED FOR HIGHER EDUCATION EXPENSES.—

(A) IN GENERAL.—Section 529 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(g) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR EDUCATIONAL EXPENSES.—

“(1) IN GENERAL.—The tax imposed by section 530(d)(4) shall apply to payments and distributions from qualified State tuition programs in the same manner as such tax applies to education individual retirement accounts.

“(2) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply to the distribution to a contributor of any contribution paid during a taxable year to a qualified tuition program to the extent that such contribution exceeds the limitation in section 4973(g) if such distribution (and the net income with respect to such excess contribution) meet requirements comparable to the requirements of section 530(d)(4)(C).”

(B) CONFORMING AMENDMENT.—Section 529(b)(3) of such Code is repealed.

(2) WITHHOLDING OF TAX ON CERTAIN DISTRIBUTIONS.—Section 529(c) is amended by adding at the end the following new paragraph:

“(6) WITHHOLDING OF TAX ON CERTAIN DISTRIBUTIONS.—

“(A) IN GENERAL.—A qualified State tuition program shall withhold from any distribution an amount equal to 15 percent of the portion of such distribution properly allocable to income on the contract (as determined under section 72).

“(B) EXCEPTIONS.—Subparagraph (A) shall not apply to a distribution which—

“(i) is a qualified higher education distribution under subsection (f), or

“(ii) is exempt from the payment of the additional tax imposed by subsection (g).”

(3) DISTRIBUTIONS REQUIRED IN CERTAIN CASES.—Subsection (b) of section 529 of such Code is amended by adding at the end the following new paragraph:

“(8) REQUIRED DISTRIBUTIONS.—

“(A) IN GENERAL.—A program shall be treated as a qualified State tuition program only if any balance to the credit of a designated beneficiary (if any) on the account termination date is required to be distributed within 30 days after such date to such beneficiary (or in the case of death, the estate of the beneficiary).

“(B) ACCOUNT TERMINATION DATE.—For purposes of subparagraph (A), the term ‘account termination date’ means whichever of the following dates is the earliest:

“(i) The date on which the designated beneficiary attains age 30.

“(ii) The date on which the designated beneficiary dies.”

(d) COST-OF-LIVING ADJUSTMENTS.—Section 529(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(6) COST-OF-LIVING ADJUSTMENTS.—In the case of calendar years beginning after December 31, 1998, the \$32,500 amount under subsection (b)(7) and the \$4,500 amount under subsection (e)(3)(B)(ii)(I) 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, determined by substituting ‘1997’ for ‘1992’ in subparagraph (B) thereof.

If any dollar amount is not a multiple of \$100 after being increased under this paragraph, such amount shall be rounded to the next lowest multiple of \$100.”

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to distributions in taxable years beginning after December 31, 1997.

(2) CONTRACT REQUIREMENTS.—The amendments made by subsections (b)(1) and (c)(3) shall apply to contracts issued after December 31, 1997.

**SEC. \_\_\_\_ EXTENSION AND MODIFICATION OF SUBSIDIES FOR ALCOHOL FUELS.**

(a) EXTENSION.—

(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking “2000” each place it appears and inserting “2007”:

(A) Section 4041(b)(2)(C) (relating to termination).

(B) Section 4041(k)(3) (relating to termination).

(C) Section 4081(c)(8) (relating to termination).

(D) Section 4091(c)(5) (relating to termination).

(2) Section 4041(m)(1)(A) of such Code (relating to certain alcohol fuels), as amended by section 907(b) of the Taxpayer Relief Act of 1997, is amended by striking “1999” both places it appears and inserting “2005”.

(3) Section 6427(f)(4) of such Code (relating to termination) is amended by striking “1999” and inserting “2007”.

(4) Section 40(e)(1) of such Code (relating to termination) is amended—

(A) by striking “December 31, 2000” and inserting “December 31, 2007”, and

(B) by striking subparagraph (B) and inserting the following:

“(B) of any fuel for any period before January 1, 2008, during which the rate of tax under section 4081(a)(2)(A) is 4.3 cents per gallon.”

(5) Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are amended in the effective period column by striking “10/1/2000” each place it appears and inserting “10/1/2007”.

(b) MODIFICATION.—

(1) IN GENERAL.—Subsection (h) of section 40 of the Internal Revenue Code of 1986 (relating to alcohol used as fuel) is amended to read as follows:

“(h) REDUCED CREDIT FOR ETHANOL BLENDEES.—

“(1) IN GENERAL.—In the case of any alcohol mixture credit or alcohol credit with respect to any sale or use of alcohol which is ethanol during calendar years 2001 through 2007—

“(A) subsections (b)(1)(A) and (b)(2)(A) shall be applied by substituting ‘the blender amount’ for ‘60 cents’,

“(B) subsection (b)(3) shall be applied by substituting ‘the low-proof blender amount’ for ‘45 cents’ and ‘the blender amount’ for ‘60 cents’, and

“(C) subparagraphs (A) and (B) of subsection (d)(3) shall be applied by substituting ‘the blender amount’ for ‘60 cents’ and ‘the low-proof blender amount’ for ‘45 cents’.

“(2) AMOUNTS.—For purposes of paragraph (1), the blender amount and the low-proof blender amount shall be determined in accordance with the following table:

In the case of any sale or use during calendar year:	The blender amount is:	The low-proof blender amount is:
2001 or 2002 .....	53 cents .....	39.26 cents
2003 or 2004 .....	52 cents .....	38.52 cents
2005, 2006, or 2007.	51 cents .....	37.78 cents.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(b)(2) of such Code is amended—

(i) in subparagraph (A)(i), by striking “5.4 cents” and inserting “the applicable blender rate”, and

(ii) by redesignating subparagraph (C), as amended by subsection (a)(2)(A), as subparagraph (D) and by inserting after subparagraph (B) the following:

“(C) APPLICABLE BLENDER RATE.—For purposes of subparagraph (A)(i), the applicable blender rate is—

“(i) except as provided in clause (ii), 5.4 cents, and

“(ii) for sales or uses during calendar years 2001 through 2007, 1/10 of the blender amount applicable under section 40(h)(2) for the calendar year in which the sale or use occurs.”.

(B) Subparagraph (A) of section 4081(c)(4) of such Code is amended to read as follows:

“(A) GENERAL RULES.—

“(i) MIXTURES CONTAINING ETHANOL.—Except as provided in clause (ii), in the case of a qualified alcohol mixture which contains gasoline, the alcohol mixture rate is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

“(I) in the case of 10 percent gasohol, the applicable blender rate (as defined in section 4041(b)(2)(A)) per gallon,

“(II) in the case of 7.7 percent gasohol, the number of cents per gallon equal to 77 percent of such applicable blender rate, and

“(III) in the case of 5.7 percent gasohol, the number of cents per gallon equal to 57 percent of such applicable blender rate.

“(ii) MIXTURES NOT CONTAINING ETHANOL.—In the case of a qualified alcohol mixture



which contains gasoline and none of the alcohol in which consists of ethanol, the alcohol mixture rate is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

“(I) in the case of 10 percent gasohol, 6 cents per gallon,

“(II) in the case of 7.7 percent gasohol, 4.62 cents per gallon, and

“(III) in the case of 5.7 percent gasohol, 3.42 cents per gallon.”

(C) Section 4081(c)(5) of such Code is amended by striking “5.4 cents” and inserting “the applicable blender rate (as defined in section 4041(b)(2)(C))”.

(D) Section 4091(c)(1) of such Code is amended by striking “13.4 cents” each place it appears and inserting “the applicable blender amount” and by adding at the end the following new sentence: “For purposes of this paragraph, the term ‘applicable blender amount’ means 13.3 cents in the case of any sale or use during 2001 or 2002, 13.2 cents in the case of any sale or use during 2003 or 2004, 13.1 cents in the case of any sale or use during 2005, 2006, or 2007, and 13.4 cents in the case of any sale or use during 2008 or thereafter.”

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 2001.

#### DASCHLE (AND MOYNIHAN) AMENDMENTS NO. 1536-1537

(Ordered to lie on the table.)

Mr. DASCHLE (for himself and Mr. MOYNIHAN) submitted two amendments intended to be proposed by them to the bill, H.R. 2646, supra; as follows:

##### AMENDMENT NO. 1526

On page 6, line 5, strike “1997.” and insert “1997, except that such amendments shall only take effect to the extent that—

(A) contributions to education individual retirement accounts for qualified elementary and secondary education expenses are—

(i) limited to accounts that, at the time the account is created or organized, are designated as solely for the payment of such expenses, and

(ii) not allowed for contributors who have modified adjusted gross income in excess of \$75,000 and are ratably reduced to zero for contributors who have modified adjusted gross income between \$60,000 and \$75,000,

(B) contributions to education individual retirement accounts in excess of \$500 for any taxable year may be made only to accounts described in subparagraph (A)(i),

(C) no contributions may be made to accounts described in subparagraph (A)(i) for taxable years ending after December 31, 2002,

(D) the modified adjusted gross income limitation shall apply to all contributors but contributors made by a person other than the taxpayer with respect to whom a deduction is allowable under section 151(c)(1) for a designated beneficiary shall be treated as having been made by such taxpayer, and

(E) expenses for computer and other equipment, transportation, and supplementary items are allowed tax-free only if required or provided by the school.”

##### AMENDMENT NO. 1537

Strike section 2 and insert:

#### SEC. 2. MODIFICATIONS TO EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

(a) TAX-FREE EXPENDITURES FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.—

(1) IN GENERAL.—Section 530(b)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

“(2) QUALIFIED EDUCATION EXPENSES.—

“(A) IN GENERAL.—The term ‘qualified education expenses’ means—

“(i) qualified higher education expenses (as defined in section 529(e)(3)), and

“(ii) qualified elementary and secondary education expenses (as defined in paragraph (4)), but only if the account is, at the time the account is created or organized, designated solely for payment of qualified elementary and secondary education expenses of the designated beneficiary.

Such expenses shall be reduced as provided in section 25A(g)(2).

“(B) QUALIFIED STATE TUITION PROGRAMS.—Except in the case of an account described in subparagraph (A)(ii), such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified State tuition program (as defined in section 529(b)) for the benefit of the beneficiary of the account.”

(2) ADJUSTED GROSS INCOME LIMITATION.—Section 530(c) of such Code is amended by redesignating paragraph (2) as paragraph (4) and by inserting after paragraph (1) the following:

“(2) SPECIAL RULE FOR ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—Notwithstanding paragraph (1), in the case of an account designated under subsection (b)(2)(A)(ii), the maximum amount which a contributor could otherwise make to an account under this section shall be reduced by an amount which bears the same ratio to such maximum amount as—

“(A) the excess of—

“(i) the contributor’s modified adjusted gross income for such taxable year, over

“(ii) \$60,000, bears to

“(B) \$15,000.

“(3) CONTRIBUTIONS TREATED AS MADE BY INDIVIDUAL ELIGIBLE FOR DEPENDENCY EXEMPTION.—For purposes of applying this subsection, any contribution by a person other than the taxpayer with respect to whom a deduction is allowable under section 151(c)(1) for a designated beneficiary shall be treated as having been made by such taxpayer.”

(3) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—Section 530(b) of such Code is amended by adding at the end the following new paragraph:

“(4) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

“(A) IN GENERAL.—The term ‘qualified elementary and secondary education expenses’ means—

“(i) tuition, fees, tutoring, special needs services, books, or supplies in connection with the enrollment or attendance of the designated beneficiary of the trust at a public, private, or religious school, or

“(ii) computer equipment (including related software and services) and other equipment, transportation, and supplementary expenses required or provided by a public, private, or religious school in connection with such enrollment or attendance.

“(B) SPECIAL RULE FOR HOME-SCHOOLING.—Such term shall include expenses described in subparagraph (A) required for education provided by homeschooling if the requirements of any applicable State or local law are met with respect to such education.

“(C) SCHOOL.—The term ‘school’ means any school which provides elementary education or secondary education (through grade 12), as determined under State law.”

(4) NO ROLLOVERS BETWEEN COLLEGE ACCOUNTS AND NON-COLLEGE ACCOUNTS.—Section 530(d)(5) of such Code is amended by adding at the end the following: “This paragraph shall not apply to a transfer of an amount between an account not described in subsection (b)(2)(A)(ii) and an account so described.”

(5) CONFORMING AMENDMENTS.—Subsections (b)(1) and (d)(2) of section 530 of such Code

are each amended by striking “higher” each place it appears in the text and heading thereof.

(b) TEMPORARY INCREASE IN MAXIMUM ANNUAL CONTRIBUTIONS FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES.—

(1) IN GENERAL.—Section 530(b)(1)(A)(iii) of the Internal Revenue Code of 1986 is amended by striking “\$500” and inserting “the contribution limit for such taxable year”.

(2) CONTRIBUTION LIMIT.—Section 530(b) of such Code is amended by adding at the end the following new paragraph:

“(4) CONTRIBUTION LIMIT.—The term ‘contribution limit’ means—

“(A) except as provided in subparagraph (B), \$500, or

“(B) in the case of an account designated under paragraph (2)(A)(ii)—

“(i) \$2,500 for any taxable year ending before January 1, 2003, and

“(ii) zero for any taxable year ending on or after such date.”

(3) CONFORMING AMENDMENTS.—

(A) Section 530(d)(4)(C) of such Code is amended by striking “\$500” and inserting “the contribution limit for such taxable year”.

(B) Section 4973(e)(1)(A) of such Code is amended by striking “\$500” and inserting “the contribution limit (as defined in section 530(b)(4)) for such taxable year”.

(c) WAIVER OF AGE LIMITATIONS FOR CHILDREN WITH SPECIAL NEEDS.—Paragraph (1) of section 530(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following flush sentence:

“The age limitations in the preceding sentence shall not apply to any designated beneficiary with special needs (as determined under regulations prescribed by the Secretary).”

(d) EFFECTIVE DATE; REFERENCES.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 213 of the Taxpayer Relief Act of 1997.

(2) REFERENCES.—Any reference in this section to any section of the Internal Revenue Code of 1986 shall be a reference to such section as added by the Taxpayer Relief Act of 1997.

#### KERREY AMENDMENT NO. 1538

(Ordered to lie on the table.)

Mr. KERREY submitted an amendment intended to be proposed by him to the bill, H.R. 2646, supra; as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Internal Revenue Service Restructuring and Reform Act of 1997”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

#### SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.

(a) The Congress finds the following:

(1) The structure of the Internal Revenue Service should be strengthened to ensure focus and better target its budgeting, staffing, and technology to serve the American taxpayer and collect the Federal revenue.

(2) The American public expects timely, accurate, and respectful service from the Internal Revenue Service.

(3) The job of the Internal Revenue Service is to operate as an efficient financial management organization.

(4) The bulk of the Federal revenue is generated through voluntary compliance. Taxpayer service and education, as well as targeted compliance and enforcement initiatives, increase voluntary compliance.

(5) While the Internal Revenue Service must maintain a strong enforcement presence, its core and the core of the Federal revenue stream lie in a revamped, modern, technologically advanced organization that can track finances, send out clear notices, and assist taxpayers promptly and efficiently.

(6) The Internal Revenue Service governance, management, and oversight structures must: develop and maintain a shared vision with continuity; set and maintain priorities and strategic direction; impose accountability on senior management; provide oversight through a credible board, including members who bring private sector expertise to the Internal Revenue Service; develop appropriate measures of success; align budget and technology with priorities and strategic direction; and coordinate oversight and identify problems at an early stage.

(7) The Internal Revenue Service must use information technology as an enabler of its strategic objectives.

(8) Electronic filing can increase cost savings and compliance.

(9) In order to ensure that fewer taxpayers are subject to improper treatment by the Internal Revenue Service, Congress and the agency need to focus on preventing problems before they occur.

(10) There currently is no mechanism in place to ensure that Members of Congress have a complete understanding of how tax legislation will affect taxpayers and the Internal Revenue Service and to create incentives to simplify the tax law, and to ensure that Congress hears directly from the Internal Revenue Service during the legislative process.

(b) The purposes of this Act are as follows:

(1) To restructure the Internal Revenue Service, transforming it into a world class service organization.

(2) To establish taxpayer satisfaction as the goal of the Internal Revenue Service, such that the Internal Revenue Service should only initiate contact with a taxpayer if the agency is prepared to devote the resources necessary for a proper and timely resolution of the matter.

(3) To provide for direct accountability to the President for tax administration, an Internal Revenue Service Oversight Board, a strengthened Commissioner of Internal Revenue, and coordinated congressional oversight to ensure that there are clear lines of accountability and that the leadership of the Internal Revenue Service has the continuity and expertise to guide the agency.

(4) To enable the Internal Revenue Service to recruit and train a first-class workforce that will be rewarded for performance and held accountable for working with taxpayers to solve problems.

(5) To establish paperless filing as the preferred and most convenient means of filing tax returns for the vast majority of taxpayers within 10 years of enactment of this Act.

(6) To provide additional taxpayer protections and rights and to ensure that taxpayers receive fair, impartial, timely, and courteous treatment from the Internal Revenue Service.

(7) To establish the resolution of the century date change problem as the highest technology priority of the Internal Revenue Service.

(8) To establish procedures to minimize complexity in the tax law and simplify tax administration, and provide Congress with an independent view of tax administration from the Internal Revenue Service.

## TITLE I—EXECUTIVE BRANCH GOVERNANCE AND SENIOR MANAGEMENT OF THE INTERNAL REVENUE SERVICE

Subtitle A—Executive Branch Governance and Senior Management

### SEC. 101. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

(a) IN GENERAL.—Section 7802 (relating to the Commissioner of Internal Revenue) is amended to read as follows:

#### “SEC. 7802. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.

“(a) ESTABLISHMENT.—There is established within the Department of the Treasury the Internal Revenue Service Oversight Board (in this subchapter referred to as the ‘Board’).

“(b) MEMBERSHIP.—

“(1) COMPOSITION.—The Board shall be composed of 9 members, of whom—

“(A) 7 shall be individuals who are not full-time Federal officers or employees, who are appointed by the President, by and with the advice and consent of the Senate, and who shall be considered special government employees pursuant to paragraph (2).

“(B) 1 shall be the Secretary of the Treasury or, if the Secretary so designates, the Deputy Secretary of the Treasury, and

“(C) 1 shall be a representative of an organization that represents a substantial number of Internal Revenue Service employees who is appointed by the President, by and with the advice and consent of the Senate.

“(2) SPECIAL GOVERNMENT EMPLOYEES.—

“(A) QUALIFICATIONS.—Members of the Board described in paragraph (1)(A) shall be appointed solely on the basis of their professional experience and expertise in the following areas:

“(i) Management of large service organizations.

“(ii) Customer service.

“(iii) Compliance.

“(iv) Information technology.

“(v) Organization development.

“(vi) The needs and concerns of taxpayers.

In the aggregate, the members of the Board described in paragraph (1)(A) should collectively bring to bear expertise in these enumerated areas.

“(B) TERMS.—Each member who is described in paragraph (1)(A) shall be appointed for a term of 5 years, except that of the members first appointed—

“(i) 1 member shall be appointed for a term of 1 year,

“(ii) 1 member shall be appointed for a term of 2 years,

“(iii) 2 members shall be appointed for a term of 3 years, and

“(iv) 1 member shall be appointed for a term of 4 years.

“(C) REAPPOINTMENT.—An individual who is described in paragraph (1)(A) may be appointed to no more than two 5-year terms on the Board.

“(D) SPECIAL GOVERNMENT EMPLOYEES.—During such periods as they are performing services for the Board, members who are not Federal officers or employees shall be treated as special government employees (as defined in section 202 of title 18, United States Code).

“(E) CLAIMS.—

“(i) IN GENERAL.—Members of the Board who are described in paragraph (1)(A) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member. The preceding sentence shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious conduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the Board.

“(ii) EFFECT ON OTHER LAW.—This subparagraph shall not be construed—

“(I) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions,

“(II) to affect any other right or remedy against the United States under applicable law, or

“(III) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees not described in this subparagraph.

“(3) VACANCY.—Any vacancy on the Board—

“(A) shall not affect the powers of the Board, and

“(B) shall be filled in the same manner as the original appointment.

“(4) REMOVAL.—

“(A) IN GENERAL.—A member of the Board may be removed at the will of the President.

“(B) SECRETARY OR DELEGATE.—An individual described in subsection (b)(1)(B) shall be removed upon termination of employment.

“(C) REPRESENTATIVE OF INTERNAL REVENUE SERVICE EMPLOYEES.—A member who is from an organization that represents a substantial number of Internal Revenue Service employees shall be removed upon termination of employment, membership, or other affiliation with such organization.

“(c) GENERAL RESPONSIBILITIES.—

“(1) IN GENERAL.—The Board shall oversee the Internal Revenue Service in the administration, management, conduct, direction, and supervision of the executive and application of the Internal revenue laws or related statutes and tax conventions to which the United States is a party.

“(2) EXCEPTIONS.—The Board shall have no responsibilities or authority with respect to—

“(A) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions,

“(B) specific law enforcement activities of the Internal Revenue Service, including compliance activities such as criminal investigations, examinations, and collection activities, or

“(C) specific activities of the Internal Revenue Service delegated to employees of the Internal Revenue Service pursuant to delegation orders in effect as of the date of the enactment of this subsection, including delegation order 106 relating to procurement authority, except to the extent that such delegation orders are modified subsequently by the Secretary.

“(3) RESTRICTION ON DISCLOSURE OF RETURN INFORMATION TO BOARD MEMBERS.—No return, return information, or taxpayer return information (as defined in section 6103(b)) may be disclosed to any member of the Board described in subsection (b)(1)(A) or (C). Any request for information not permitted to be disclosed under the preceding sentence, and any contact relating to a specific taxpayer, made by a member of the Board to an officer or employee of the Internal Revenue Service shall be reported by such officer or employee to the Secretary and the Joint Committee on Taxation.

“(d) SPECIFIC RESPONSIBILITIES.—The Board shall have the following specific responsibilities:

“(1) STRATEGIC PLANS.—To review and approve strategic plans of the Internal Revenue Service, including the establishment of—

“(A) mission and objectives, and standards of performance relative to either, and

“(B) annual and long-range strategic plans.

“(2) OPERATIONAL PLANS.—To review the operational functions of the Internal Revenue Service, including—

“(A) plans for modernization of the tax system,

“(B) plans for outsourcing or managed competition, and

“(C) plans for training and education.

“(3) MANAGEMENT.—To—

“(A) recommend to the President a list of at least 3 candidates for appointment as the Commissioner of Internal Revenue and recommend to the President the removal of the Commissioner,

“(B) review the Commissioner’s selection, evaluation, and compensation of senior managers,

“(C) review the Commissioner’s plans for reorganization of the Internal Revenue Service, and

“(D) review the performance of the office of Taxpayer Advocate.

“(4) BUDGET.—To—

“(A) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner,

“(B) submit such budget request to the Secretary of the Treasury,

“(C) ensure that the budget request supports the annual and long-range strategic plans, and

“(D) ensure appropriate financial audits of the Internal Revenue Service.

The Secretary shall submit the advisory budget request referred to in subparagraph (B) for any fiscal year to the President who shall submit such advisory budget request, without revision, to Congress together with the President’s official budget request for the Internal Revenue Service for such fiscal year.

“(e) BOARD PERSONNEL MATTERS.—

“(1) COMPENSATION OF MEMBERS.—

“(A) IN GENERAL.—Each member of the Board who is described in subsection (b)(1)(A) shall be compensated at a rate of \$30,000 per year. All other members of the Board shall serve without compensation for such service.

“(B) CHAIRPERSON.—In lieu of the amount specified in subparagraph (A), the Chairperson of the Board shall be compensated at a rate of \$50,000 per year if such Chairperson is described in subsection (b)(1)(A).

“(2) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

“(3) STAFF.—On the request of the Chairperson of the Board, the Commissioner shall detail to the Board such personnel as may be necessary to enable the Board to perform its duties. Such detail shall be without interruption or loss of civil service status or privilege.

“(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

“(f) ADMINISTRATIVE MATTERS.—

“(1) CHAIR.—The members of the Board shall elect a chairperson for a 2-year term.

“(2) COMMITTEES.—The Board may establish such committees as the Board determines appropriate.

“(3) MEETINGS.—The Board shall meet at least once each month and at such other times as the Board determines appropriate.

“(4) REPORTS.—The Board shall each year report to the President and the Congress with respect to the conduct of its responsibilities under this title.”

(b) CONFORMING AMENDMENTS.—

(1) Section 4946(c) (relating to definitions and special rules for chapter 42) is amended—

(A) by striking “or” at the end of paragraph (5),

(B) by striking the period at the end of paragraph (6) and inserting “, or”, and

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

“(7) a member of the Internal Revenue Service Oversight Board.”

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

“Sec. 7802. Internal Revenue Service Oversight Board.”

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 102. COMMISSIONER OF INTERNAL REVENUE; CHIEF COUNSEL; OTHER OFFICIALS.**

(a) IN GENERAL.—Section 7803 (relating to other personnel) is amended to read as follows:

**“SEC. 7803. COMMISSIONER OF INTERNAL REVENUE; CHIEF COUNSEL; OTHER OFFICIALS.**

“(a) COMMISSIONER OF INTERNAL REVENUE.—

“(1) APPOINTMENT.—

“(A) IN GENERAL.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the President, by and with the advice and consent of the Senate, to a 5-year term. The appointment shall be made without regard to political affiliation or activity.

“(B) RECOMMENDATIONS.—The President shall select the Commissioner from among the list of candidates submitted by the Internal Revenue Service Oversight Board pursuant to section 7802(3)(A). In the event that the President rejects all of the candidates submitted by such Board, the Board shall submit additional lists as necessary.

“(2) DUTIES.—The Commissioner shall have such duties and powers as the Secretary may prescribe, including the power to—

“(A) administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party; and

“(B) recommend to the President a candidate for appointment as Chief Counsel for the Internal Revenue Service when a vacancy occurs, and recommend to the President the removal of such Chief Counsel.

If the Secretary determines not to delegate a power specified in subparagraph (A) or (B), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives, the Committees on Finance, Government Operations, and Appropriations of the Senate, and the Joint Committee on Taxation.

“(3) CONSULTATION WITH BOARD.—The Commissioner shall consult with the Board on all matters set forth in paragraphs (2) and (3) (other than subparagraph (A)) of section 7802(d)(2).

“(4) PAY.—The Commissioner is authorized to be paid at an annual rate of basic pay not to exceed the maximum rate of basic pay of level II of the Executive Schedule under section 5311 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304 of such title 5.

“(b) CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE.—

“(1) APPOINTMENT.—There shall be in the Department of the Treasury a Chief Counsel for the Internal Revenue Service who shall be appointed by the President, by and with the advice and consent of the Senate.

“(2) DUTIES.—The Chief Counsel shall be the chief law officer for the Internal Revenue

Service and shall perform such duties as may be prescribed by the Secretary of the Treasury. To the extent that the Chief Counsel performs duties relating to the development of rules and regulations promulgated under this title, final decision making authority shall remain with the Secretary.

“(3) PAY.—The Chief Counsel is authorized to be paid at an annual rate of basic pay not to exceed the maximum rate of basic pay of level III of the Executive Schedule under section 5311 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304 of such title 5.

“(c) ASSISTANT COMMISSIONER FOR EMPLOYEE PLANS AND EXEMPT ORGANIZATIONS.—

“(1) ESTABLISHMENT OF OFFICE.—There is established within the Internal Revenue Service an office to be known as the ‘Office of Employee Plans and Exempt Organizations’ to be under the supervision and direction of an Assistant Commissioner of Internal Revenue. As head of the Office, the Assistant Commissioner shall be responsible for carrying out such functions as the Secretary may prescribe with respect to organizations exempt from tax under section 501(a) and with respect to plans to which part I of subchapter D of chapter 1 applies (and with respect to organizations designed to be exempt under such section and plans designed to be plans to which such part applies) and other nonqualified deferred compensation arrangements. The Assistant Commissioner shall report annually to the Commissioner with respect to the Assistant Commissioner’s responsibilities under this section.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Internal Revenue Service solely to carry out the functions of the Office an amount equal to the sum of—

“(A) so much of the collection from taxes under section 4940 (relating to excise tax based on investment income) as would have been collected if the rate of tax under such section was 2 percent during the second preceding fiscal year, and

“(B) the greater of—

“(i) an amount equal to the amount described in subparagraph (A), or

“(ii) \$30,000,000.

“(3) USER FEES.—All user fees collected by the Office shall be dedicated to carry out the functions of the Office.

“(d) OFFICE OF TAXPAYER ADVOCATE.—

“(1) ESTABLISHMENT.—

“(A) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the ‘Office of the Taxpayer Advocate’.

“(B) NATIONAL TAXPAYER ADVOCATE.—

“(i) IN GENERAL.—The Office of the Taxpayer Advocate shall be under the supervision and direction of an official to be known as the ‘National Taxpayer Advocate.’ The National Taxpayer Advocate shall report directly to the Commissioner of Internal Revenue and shall be entitled to compensation at the same rate as the highest level official reporting directly to the Commissioner of the Internal Revenue Service.

“(ii) APPOINTMENT.—The National Taxpayer Advocate shall be appointed by the President, upon recommendation of the Internal Revenue Service Oversight Board, by and with the advice and consent of the Senate, from among individuals with a background in customer service, as well as tax law. No officer or employee of the Internal Revenue Service may be appointed to such position in order to ensure an independent position to represent taxpayers’ interests.”

“(2) FUNCTIONS OF OFFICE.—

“(A) IN GENERAL.—It shall be the function of the Office of Taxpayer Advocate to—

“(i) assist taxpayers in resolving problems with the Internal Revenue Service,

“(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service.

“(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

“(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

“(B) ANNUAL REPORTS.—

“(i) OBJECTIVES.—Not later than June 30 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

“(ii) ACTIVITIES.—Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Office of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

“(I) identify the initiatives the Office of the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

“(II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811,

“(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

“(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

“(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory,

“(VI) contain an inventory of the items described in subclauses (I), (II), and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction,

“(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),

“(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers,

“(IX) identify areas of the tax law that impose significant compliance burdens on taxpayers or the Internal Revenue Service, including specific recommendations for remedying these problems,

“(X) identify the 10 most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes, and

“(XI) include such other information as the National Taxpayer Advocate may deem advisable.

“(iii) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subparagraph shall be provided directly to the Committees described in clauses (i) and (ii) without any prior review or comment from the Commissioner, the Secretary of the Treasury, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

“(C) OTHER RESPONSIBILITIES.—The National Taxpayer Advocate shall—

“(i) monitor the coverage and geographic allocation of local taxpayer advocates,

“(ii) develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to local taxpayer advocates,

“(iii) ensure that the local telephone number for the local taxpayer advocate in each Internal Revenue Service district is published and available to taxpayers, and

“(iv) in conjunction with the Commissioner, develop career paths for local taxpayer advocates choosing to make a career in the Office of the Taxpayer Advocate.”

“(D) PERSONNEL ACTIONS.—

“(i) HEADS OF LOCAL OFFICES.—The National Taxpayer Advocate shall have the responsibility to—

“(I) appoint and dismiss the local taxpayer advocate heading the office of the taxpayer advocate at each Internal Revenue Service district office and service center, and

“(II) evaluate and take personnel actions with respect to any employee of an office of the taxpayer advocate described in subclause (I).

“(ii) CONSULTATION.—The National Taxpayer Advocate may consult with the head of any Internal Revenue Service district office or service center in carrying out the National Taxpayer Advocate's responsibilities under this subparagraph.”

“(3) RESPONSIBILITIES OF COMMISSIONER.—The Commissioner shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayer Advocate within 3 months after submission to the Commissioner.”

“(4) OPERATION OF LOCAL OFFICES.—

“(A) IN GENERAL.—Each local taxpayer advocate—

“(i) shall report directly to the National Taxpayer Advocate,

“(ii) may consult with the head of the Internal Revenue Service district office or service center which the local taxpayer advocate serves regarding the daily operation of the office of the taxpayer advocate,

“(iii) shall, at the initial meeting with any taxpayer seeking the assistance of the office of the taxpayer advocate, notify such taxpayer that the office operates independently of any Internal Revenue Service district office or service center and reports directly to Congress through the National Taxpayer Advocate, and

“(iv) shall, at the taxpayer advocate's discretion, not disclose to the Internal Revenue Service contact with, or information provided by, such taxpayer.

“(B) MAINTENANCE OF INDEPENDENT COMMUNICATIONS.—Each local office of the taxpayer advocate shall maintain separate phone, facsimile, and other electronic communication access, and a separate post office address from the Internal Revenue Service district office or service center which it serves.”

(b) AMENDMENT OF PRESIDENT'S AUTHORITY TO APPOINT CHIEF COUNSEL FOR INTERNAL REVENUE SERVICE.—

(1) Paragraph (2) of section 7801(b) (relating to the office of General Counsel for the Department) is amended to read as follows:

“(2) ASSISTANT GENERAL COUNSELS.—The Secretary of the Treasury may appoint, without regard to the provisions of the civil service laws, and fix the duties of not to exceed five assistant General Counsels.”

(2)(A) Subsection (f)(2) of section 301 of title 31, United States Code, is amended by striking “an Assistant General Counsel who shall be the” and inserting “a”.

(B) Section 301 of such title 31 is amended by adding at the end the following new subsection:

“(h) CROSS REFERENCE.—For provisions relating to the appointment of officers and employees of the Internal Revenue Service, see subchapter A of chapter 80 of the Internal Revenue Code of 1986.”

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7803 and inserting the following new item:

“Sec. 7803. Commissioner of Internal Revenue; Chief Counsel; other officials.”

(2) Subsection (b) of section 5109 of title 5, United States Code, is amended by striking “7802(b)” and inserting “7803(c)”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) CURRENT OFFICERS.—

(A) In the case of an individual serving as Commissioner of Internal Revenue on the date of the enactment of this Act who was appointed to such position before such date, the 5-year term required by section 7803(a)(1) of the Internal Revenue Code of 1986, as added by this section, shall begin as of the date of such appointment.

(B) The President shall nominate for appointment the initial National Taxpayer Advocate to serve as head of the Office of the Taxpayer Advocate established under section 7803(d) of the Internal Revenue Code of 1986, as added by this section, not later than 120 days after the date of the enactment of this Act.

(C) Until an individual has taken office under section 7803(d) of the Internal Revenue Code of 1986, as added by this section, the Taxpayer Advocate shall assume the additional powers and duties of the National Taxpayer Advocate under the amendments made by this section.

**SEC. 103. OTHER PERSONNEL.**

(a) IN GENERAL.—Section 7804 (relating to the effect of reorganization plans) is amended to read as follows:

**“SEC. 7804. OTHER PERSONNEL.**

“(a) APPOINTMENT AND SUPERVISION.—Unless otherwise prescribed by the Secretary, the Commissioner of Internal Revenue is authorized to employ such number of persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws, and the Commissioner shall issue all necessary directions, instructions, orders, and rules applicable to such persons.

“(b) POSTS OF DUTY OF EMPLOYEES IN FIELD SERVICE OR TRAVELING.—Unless otherwise prescribed by the Secretary—

“(1) DESIGNATION OF POST OF DUTY.—The Commissioner shall determine and designate the posts of duty of all such persons engaged in field work or traveling on official business outside of the District of Columbia.

“(2) DETAIL OF PERSONNEL FROM FIELD SERVICE.—The Commissioner may order any such person engaged in field work to duty in the District of Columbia, for such periods as the Commissioner may prescribe, and to any designated post of duty outside the District of Columbia upon the completion of such duty.

“(c) DELINQUENT INTERNAL REVENUE OFFICERS AND EMPLOYEES.—If any officer or employee of the Treasury Department acting in connection with the internal revenue laws fails to account for and pay over any amount of money or property collected or received by him in connection with the internal revenue laws, the Secretary shall issue notice and demand to such officer or employee for payment of the amount which he failed to account for and pay over, and, upon failure to pay the amount demanded within the

time specified in such notice, the amount so demanded shall be deemed imposed upon such officer or employee and assessed upon the date of such notice and demand, and the provisions of chapter 64 and all other provisions of law relating to the collection of assessed taxes shall be applicable in respect of such amount."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 6344 is amended by striking "section 7803(d)" and inserting "section 7804(c)".

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7804 and inserting the following new item:

"Sec. 7804. Other personnel."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Personnel Flexibilities

**SEC. 111. PERSONNEL FLEXIBILITIES.**

(a) IN GENERAL.—Part III of title 5, United States Code, is amended by adding at the end the following new subpart:

"Subpart I—Miscellaneous

**CHAPTER 93—PERSONNEL FLEXIBILITIES RELATING TO THE INTERNAL REVENUE SERVICE**

"Sec.

"9301. General requirements.

"9302. Flexibilities relating to performance management.

"9303. Classification and pay flexibilities.

"9304. Staffing flexibilities.

"9305. Flexibilities relating to demonstration projects.

**§ 9301. General requirements**

"(a) CONFORMANCE WITH MERIT SYSTEM PRINCIPLES, ETC.—Any flexibilities under this chapter shall be exercised in a manner consistent with—

"(1) chapter 23, relating to merit system principles and prohibited personnel practices; and

"(2) provisions of this title (outside of this subpart) relating to preference eligibles.

"(b) REQUIREMENT RELATING TO UNITS REPRESENTED BY LABOR ORGANIZATIONS.—

"(1) WRITTEN AGREEMENT REQUIRED.—Employees within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to the exercise of any flexibility under section 9302, 9303, 9304, or 9305, unless there is a written agreement between the Internal Revenue Service and the organization permitting such exercise.

"(2) DEFINITION OF A WRITTEN AGREEMENT.—In order to satisfy paragraph (1), a written agreement—

"(A) need not be a collective bargaining agreement within the meaning of section 7103(8); and

"(B) may not be an agreement imposed by the Federal Service Impasses Panel under section 7119.

"(c) FLEXIBILITIES FOR WHICH OPM APPROVAL IS REQUIRED.—

"(1) IN GENERAL.—Except as provided in paragraph (2), flexibilities under this chapter may be exercised by the Internal Revenue Service without prior approval of the Office of Personnel Management.

"(2) EXCEPTIONS.—The flexibilities under subsections (c) through (e) of section 9303 may be exercised by the Internal Revenue Service only after a specific plan describing how those flexibilities are to be exercised has been submitted to and approved, in writing, by the Director of the Office of Personnel Management.

**§ 9302. Flexibilities relating to performance management**

"(a) IN GENERAL.—The Commissioner of Internal Revenue shall, within 180 days after

the date of the enactment of this chapter, establish a performance management system which—

"(1) subject to section 9301(b), shall cover all employees of the Internal Revenue Service other than—

"(A) the members of the Internal Revenue Service Oversight Board;

"(B) the Commissioner of Internal Revenue; and

"(C) the Chief Counsel for the Internal Revenue Service;

"(2) shall maintain individual accountability by—

"(A) establishing retention standards which—

"(i) shall permit the accurate evaluation of each employee's performance on the basis of criteria relating to the duties and responsibilities of the position held by such employee; and

"(ii) shall be communicated to an employee before the start of any period with respect to which the performance of such employee is to be evaluated using such standards;

"(B) providing for periodic performance evaluations to determine whether retention standards are being met; and

"(C) with respect to any employee whose performance does not meet retention standards, using the results of such employee's performance evaluation as a basis for—

"(i) denying increases in basic pay, promotions, and credit for performance under section 3502; and

"(ii) the taking of other appropriate action, such as a reassignment or an action under chapter 43; and

"(3) shall provide for—

"(A) establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with Internal Revenue Service performance planning procedures, including those established under the Government Performance and Results Act of 1993, the Information Technology Management Reform Act of 1996, Revenue Procedure 64-22 (as in effect on July 30, 1997), and taxpayer service surveys, and communicating such goals or objectives to employees;

"(B) using such goals and objectives to make performance distinctions among employees or groups of employees; and

"(C) using assessments under this paragraph, in combination with performance evaluations under paragraph (2), as a basis for granting employee awards, adjusting an employee's rate of basic pay, and taking such other personnel action as may be appropriate.

For purposes of this title, performance of an employee during any period in which such employee is subject to retention standards under paragraph (2) shall be considered to be 'unacceptable' if the performance of such employee during such period fails to meet any of those standards.

"(b) AWARDS.—

"(1) FOR SUPERIOR ACCOMPLISHMENTS.—In the case of an employee of the Internal Revenue Service, section 4502(b) shall be applied by substituting 'with the approval of the Commissioner of Internal Revenue' for 'with the approval of the Office'.

"(2) FOR EMPLOYEES WHO REPORT DIRECTLY TO THE COMMISSIONER.—

"(A) IN GENERAL.—In the case of an employee of the Internal Revenue Service who reports directly to the Commissioner of Internal Revenue, a cash award in an amount up to 50 percent of such employee's annual rate of basic pay may be made if the Commissioner finds such an award to be warranted based on such employee's performance.

"(B) NATURE OF AN AWARD.—A cash award under this paragraph shall not be considered to be part of basic pay.

"(C) TAX ENFORCEMENT RESULTS.—A cash award under this paragraph may not be based solely on tax enforcement results.

"(D) ELIGIBLE EMPLOYEES. Whether or not an employee is an employee who reports directly to the Commissioner of Internal Revenue shall, for purposes of this paragraph, be determined under regulations which the Commissioner shall prescribe.

"(E) LIMITATION ON COMPENSATION.—For purposes of applying section 5307 to an employee in connection with any calendar year to which an award made under this paragraph to such employee is attributable, subsection (a)(1) of such section shall be applied by substituting 'to equal or exceed the annual rate of compensation for the President for such calendar year' for 'to exceed the annual rate of basic pay payable for level I of the Executive Schedule, as of the end of such calendar year'.

"(3) BASED ON SAVINGS.—

"(A) IN GENERAL.—The Commissioner of Internal Revenue may authorize the payment of cash awards to employees based on documented financial savings achieved by a group or organization which such employees comprise, if such payments are made pursuant to a plan which—

"(i) specifies minimum levels of service and quality to be maintained while achieving such financial savings; and

"(ii) is in conformance with criteria prescribed by the Office of Personnel Management.

"(B) FUNDING.—A cash award under this paragraph may be paid from the fund or appropriation available to the activity primarily benefiting or the various activities benefiting.

"(C) TAX ENFORCEMENT RESULTS.—A cash award under this paragraph may not be based solely on tax enforcement results.

"(c) OTHER PROVISIONS.—

"(1) NOTICE PROVISIONS.—In applying sections 4303(b)(1)(A) and 7513(b)(1) to employees of the Internal Revenue Service, '15 days' shall be substituted for '30 days'.

"(2) APPEALS.—Notwithstanding the second sentence of section 5335(c), an employee of the Internal Revenue Service shall not have a right to appeal the denial of a periodic step increase under section 5335 to the Merit Systems Protection Board.

**§ 9303. Classification and pay flexibilities**

"(a) BROAD-BANDED SYSTEMS.—

"(1) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'broad-banded system' means a system under which positions are classified and pay for service in any such position is fixed through the use of pay bands, rather than under—

"(i) chapter 51 and subchapter III of chapter 53; or

"(ii) subchapter IV of chapter 53; and

"(B) the term 'pay band' means, with respect to positions in 1 or more occupational series, a pay range—

"(i) consisting of—

"(I) 2 or more consecutive grades of the General Schedule; or

"(II) 2 or more consecutive pay ranges of such other pay or wage schedule as would otherwise apply (but for this section); and

"(ii) the minimum rate for which is the minimum rate for the lower (or lowest) grade or range in the pay band and the maximum rate for which is the maximum rate for the higher (or highest) grade or range in the pay band, including any locality-based and other similar comparability payments.

"(2) AUTHORITY.—The Commissioner of Internal Revenue may, subject to criteria to be

prescribed by the Office of Personnel Management, establish one or more broad-banded systems covering all or any portion of its workforce which would otherwise be subject to the provisions of law cited in clause (i) or (ii) of subsection (a)(1)(A), except for any position classified by statute.

“(3) CRITERIA.—The criteria to be prescribed by the Office shall, at a minimum—

“(A) ensure that the structure of any broad-banded system maintains the principle of equal pay for substantially equal work;

“(B) establish the minimum (but not less than 2) and maximum number of grades or pay ranges that may be combined into pay bands;

“(C) establish requirements for adjusting the pay of an employee within a pay band;

“(D) establish requirements for setting the pay of a supervisory employee whose position is in a pay band or who supervises employees whose positions are in pay bands; and

“(E) establish requirements and methodologies for setting the pay of an employee upon conversion to a broad-banded system, initial appointment, change of position or type of appointment (including promotion, demotion, transfer, reassignment, reinstatement, placement in another pay band, or movement to a different geographic location), and movement between a broad-banded system and another pay system.

“(4) INFORMATION.—The Commissioner of Internal Revenue shall submit to the Office such information relating to its broad-banded systems as the Office may require.

“(5) REVIEW AND REVOCATION AUTHORITY.—The Office may, with respect to any broad-banded system under this subsection, and in accordance with regulations which it shall prescribe, exercise with respect to any broad-banded system under this subsection authorities similar to those available to it under sections 5110 and 5111 with respect to classifications under chapter 51.

“(b) SINGLE PAY-BAND SYSTEM.—

“(1) IN GENERAL.—The Commissioner of Internal Revenue may, with respect to employees who remain subject to chapter 51 and subchapter III of chapter 53 (or subchapter IV of chapter 53), fix rates of pay under a single pay-band system.

“(2) DEFINITION.—For purposes of this subsection, the term ‘single pay-band system’ means, for pay-setting purposes, a system similar to the pay-setting aspects of a broad-banded system under subsection (a), but consisting of only a single grade or pay range, under which pay may be fixed at any rate not less than the minimum and not more than the maximum rate which (but for this section) would otherwise apply with respect to the grade or pay range involved, including any locality-based and other similar comparability payments.

“(3) SPECIAL RULES.—

“(A) PROMOTION OR TRANSFER.—An employee under this subsection who is promoted or transferred to a position in a higher grade shall be entitled to basic pay at a rate determined under criteria prescribed by the Office of Personnel Management based on section 5334(b).

“(B) PERFORMANCE INCREASES.—In lieu of periodic step-increases under section 5335, an employee under this subsection who meets retention standards under section 9302(a)(2)(A) shall be entitled to performance increases under criteria prescribed by the Office. An increase under this subparagraph shall be equal to one-ninth of the difference between the minimum and maximum rates of pay for the applicable grade or pay range.

“(C) INCREASES FOR EXCEPTIONAL PERFORMANCE.—In lieu of additional step-increases under section 5336, an employee under this subsection who has demonstrated excep-

tional performance shall be eligible for a pay increase under this subparagraph under criteria prescribed by the Office. An increase under this subparagraph may not exceed the amount of an increase under subparagraph (B).

“(c) ALTERNATIVE CLASSIFICATION SYSTEMS.—

“(1) IN GENERAL.—Subject to section 9301(c), the Commissioner of Internal Revenue may establish 1 or more alternative classification systems that include any positions or groups of positions that the Commissioner determines, for reasons of effective administration—

“(A) should not be classified under chapter 51 or paid under the General Schedule;

“(B) should not be classified or paid under subchapter IV of chapter 53; or

“(C) should not be paid under section 5376.

“(2) LIMITATIONS.—An alternative classification system under this subsection may not—

“(A) with respect to any position that (but for this section) would otherwise be subject to the provisions of law cited in subparagraph (A) or (B) of paragraph (1), establish a rate of basic pay in excess of the maximum rate for grade GS-15 of the General Schedule, including any locality-based and other similar comparability payments; and

“(B) with respect to any position that (but for this section) would otherwise be subject to the provision of law cited in paragraph (1)(C), establish a rate of basic pay in excess of the annual rate of basic pay of the Commissioner of Internal Revenue.

“(d) GRADE AND PAY RETENTION.—Subject to section 9301(c), the Commissioner of Internal Revenue may, with respect to employees who are covered by a broadbanded system under subsection (a) or an alternative classification system under subsection (c), provide for variations from the provisions of subchapter VI of chapter 53.

“(e) RECRUITMENT AND RETENTION BONUSES; RETENTION ALLOWANCES.—Subject to section 9301(c), the Commissioner of Internal Revenue may, with respect to its employees, provide for variations from the provisions of sections 5753 and 5754.

#### “§ 9304. Staffing flexibilities

“(a) IN GENERAL.—

“(1) PERMANENT APPOINTMENT IN THE COMPETITIVE SERVICE.—Except as otherwise provided by this subsection, an employee of the Internal Revenue Service may be selected for a permanent appointment in the competitive service in the Internal Revenue Service through internal competitive promotion procedures when the following conditions are met:

“(A) The employee has completed 2 years of current continuous service in the competitive service under a term appointment or any combination of term appointments.

“(B) Such term appointment or appointments were made under competitive procedures prescribed for permanent appointments.

“(C) The employee’s performance under such term appointment or appointments met established retention standards.

“(D) The vacancy announcement for the term appointment from which the conversion is made stated that there was a potential for subsequent conversion to a permanent appointment.

“(2) CONDITION.—An appointment under this subsection may be made only to a position the duties and responsibilities of which are similar to those of the position held by the employee at the time of conversion (referred to in paragraph (1)(D)).

“(b) RATING SYSTEMS.—

“(1) IN GENERAL.—Notwithstanding subchapter I of chapter 33, the Commissioner of

Internal Revenue may establish category rating systems for evaluating job applicants for positions in the competitive service, under which qualified candidates are divided into 2 or more quality categories on the basis of relative degrees of merit, rather than assigned individual numerical ratings. Each applicant who meets the minimum qualification requirements for the position to be filled shall be assigned to an appropriate category based on an evaluation of the applicant’s knowledge, skills, and abilities relative to those needed for successful performance in the job to be filled.

“(2) TREATMENT OF PREFERENCE ELIGIBLES.—Within each quality category established under paragraph (1), preference eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at or higher than GS-9 (or equivalent), preference eligibles who have a compensable service-connected disability of 10 percent or more, and who meet the minimum qualification standards, shall be listed in the highest quality category.

“(3) SELECTION PROCESS.—An appointing authority may select any applicant from the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, from a merged category consisting of the highest and second highest quality categories. Notwithstanding the preceding sentence, the appointing authority may not pass over a preference eligible in the same or a higher category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as application, are satisfied, except that in no event may certification of a preference eligible under this subsection be discontinued by the Internal Revenue Service under section 3317(b) before the end of the 6-month period beginning on the date of such employee’s first certification.

“(c) MAXIMUM PERIOD FOR WHICH EMPLOYEE MAY BE DETAILED.—The 120-day limitation under section 3341(b)(1) for details and renewals of details shall not apply with respect to the Internal Revenue Service.

“(d) INVOLUNTARY REASSIGNMENTS AND REMOVALS OF CAREER APPOINTEES IN THE SENIOR EXECUTIVE SERVICE.—Neither section 3395(e)(1) nor section 3592(b)(1) shall apply with respect to the Internal Revenue Service.

“(e) PROBATIONARY PERIODS.—Notwithstanding any other provision of law or regulation, the Commissioner of Internal Revenue may establish a period of probation under section 3321 of up to 3 years for any position if, as determined by the Commissioner, a shorter period would be insufficient for the incumbent to demonstrate complete proficiency in such position.

“(f) PROVISIONS THAT REMAIN APPLICABLE.—No provision of this section exempts the Internal Revenue Service from—

“(1) any employment priorities established under direction of the President for the placement of surplus or displaced employees; or

“(2) its obligations under any court order or decree relating to the employment practices of the Internal Revenue Service.

#### “§ 9305. Flexibilities relating to demonstration projects

“(a) IN GENERAL.—For purposes of applying section 4703 with respect to the Internal Revenue Service—

“(1) paragraph (1) of subsection (b) of such section shall be deemed to read as follows:

“(1) develop a plan for such project which describes its purpose, the employees to be covered, the project itself, its anticipated outcomes, and the method of evaluating the project;:

“(2) paragraph (3) of subsection (b) of such section shall be disregarded;

“(3) paragraph (4) of subsection (b) of such section shall be applied by substituting ‘30 days’ for ‘180 days’;

“(4) paragraph (6) of subsection (b) of such section shall be deemed to read as follows:

“(6) provide each House of the Congress with the final version of the plan.”;

“(5) paragraph (1) of subsection (c) of such section shall be deemed to read as follows:

“(1) subchapter V of chapter 63 or subpart G of part III;”;

“(6) subsection (d)(1) of such section shall be disregarded.

“(b) NUMERICAL LIMITATION.—For purposes of applying the numerical limitation under subsection (d)(2) of section 4703, a demonstration project shall not be counted if or to the extent that it involves the Internal Revenue Service.”

(b) CLERICAL AMENDMENT.—The analysis for part III of title 5, United States Code, is amended by adding at the end the following:

**“Subpart I—Miscellaneous**

“93. Personnel Flexibilities Relating to the Internal Revenue Service .. 9301”.

(c) EFFECTIVE DATE.—this section shall take effect on the date of the enactment of this Act.

**TITLE II—ELECTRONIC FILING**

**SEC. 201. ELECTRONIC FILING OF TAX AND INFORMATION RETURNS.**

(a) IN GENERAL.—It is the policy of the Congress that paperless filing should be the preferred and most convenient means of filing tax and information returns, and that by the year 2007, no more than 20 percent of all tax returns should be filed on paper.

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary’s delegate (hereinafter in this section referred to as the “Secretary”) shall implement a plan to eliminate barriers, provide incentives, and use competitive market forces to increase electronic filing gradually over the next 10 years while maintaining processing times for paper returns at 40 days.

(2) ELECTRONIC COMMERCE ADVISORY GROUP.—To ensure that the Secretary receives input from the private sector in the development and implementation of the plan required by paragraph (1), the Secretary shall convene an electronic commerce advisory group to include representatives from the tax practitioner, preparer, and computerized tax processor communities and other representatives from the electronic filing industry.

(c) INCENTIVES.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall implement procedures to provide for the payment of incentives to transmitters of qualified electronically filed returns, based on the fair market value of costs to transmit returns electronically.

(2) QUALIFIED ELECTRONICALLY FILED RETURNS.—For purposes of this section, the term “qualified electronically filed return” means a return that—

(A) is transmitted electronically to the Internal Revenue Service,

(B) for which the taxpayer was not charged for the cost of such transmission, and

(C) in the case of returns transmitted after December 31, 2004, was prepared by a paid preparer who does not submit any return after such date to the Internal Revenue Service on paper.

(d) ANNUAL REPORTS.—Not later than June 30 of each calendar year after 1997, the Chairperson of the Internal Revenue Service Oversight Board, the Secretary, and the Chairperson of the electronic commerce advisory group established under subsection (b)(2)

shall report to the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, the Committees on Finance, Appropriations, and Government Affairs of the Senate, and the Joint Committee on Taxation, on—

(1) the progress of the Internal Revenue Service in meeting the policy set forth in subsection (a);

(2) the status of the plan required by subsection (b); and

(3) the necessity of action by the Congress to assist the Internal Revenue Service to satisfy the policy set forth in subsection (a).

**SEC. 203. PAPERLESS ELECTRONIC FILING.**

(a) IN GENERAL.—Section 6061 (relating to signing of returns and other documents) is amended—

(1) by striking “Except as otherwise provided by” and inserting the following:

“(a) GENERAL RULE.—Except as otherwise provided by subsection (b) and”, and

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

“(b) ELECTRONIC SIGNATURES.—The Secretary shall develop procedures for the acceptance of signatures in digital or other electronic form. Until such time as such procedures are in place, the Secretary shall accept electronically filed returns and other documents on which the required signature(s) appears in typewritten form, but filers of such documents shall be required to retain a signed paper original of all such filings, to be made available to the Secretary for inspection, until the expiration of the applicable period of limitations set forth in chapter 66.”.

(b) DEADLINE FOR ESTABLISHING PROCEDURES.—Not later than December 31, 1998, the Secretary of the Treasury or the Secretary’s delegate shall establish procedures to accept, in electronic form, any other information, statements, elections, or schedules, from taxpayers filing returns electronically, so that such taxpayers will not be required to file any paper.

(c) PROCEDURES FOR COMMUNICATIONS BETWEEN IRS AND PREPARER OF ELECTRONICALLY-FILED RETURNS.—Such Secretary shall establish procedures for taxpayers to authorize, on electronically filed returns, the preparer of such returns to communicate with the Internal Revenue Service on matters included on such returns.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 304. REGULATION OF PREPARERS.**

(a) IN GENERAL.—Subsection (a) of section 330 of title 31, United States Code, is amended—

(1) by striking “Treasury; and” in paragraph (1) and inserting “Treasury and all other persons engaged in the business of preparing returns or otherwise accepting compensation for advising in the preparation of returns,”;

(2) by striking the period at the end of paragraph (2) and inserting “, and”;

(3) by adding at the end the following:

“(3) establish uniform procedures for regulating preparers of paper and electronic tax and information returns.

No demonstration shall be required under paragraph (2) for persons solely engaged in the business of preparing returns or otherwise accepting compensation for advising in the preparation of returns.”

(b) DIRECTOR OF PRACTICE.—Such section 330 is amended by adding at the end the following new subsection:

“(d) DIRECTOR OF PRACTICE.—There is established within the Department of the Treasury an office to be known as the ‘Office of the Director of Practice’ to be under the

supervision and direction of an official to be known as the ‘Director of Practice’. The Director of Practice shall be responsible for regulation of all practice before the Department of the Treasury.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 205. PAPERLESS PAYMENT.**

(a) IN GENERAL.—Section 6311 (relating to payment by check or money order) is amended to read as follows:

**“SEC. 6311. PAYMENT OF TAX BY COMMERCIALY ACCEPTABLE MEANS.**

“(a) AUTHORITY TO RECEIVE.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment of internal revenue stamps) any commercially acceptable means that the Secretary deems appropriate to the extent and under the conditions provided in regulations prescribed by the Secretary.

“(b) ULTIMATE LIABILITY.—If a check, money order, or other method of payment, including payment by credit card, debit card, charge card, or electronic funds transfer so received is not duly paid, or is paid and subsequently charged back to the Secretary, the person by whom such check, money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

“(c) LIABILITY OF BANKS AND OTHERS.—If any certified, treasurer’s or cashier’s check (or other guaranteed draft), or any money order, or any means of payment that has been guaranteed by a financial institution (such as a credit card, debit card, charge card, or electronic funds transfer transaction which has been guaranteed expressly by a financial institution) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefore, have a lien for—

“(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

“(2) the amount of such money order upon all the assets of the issuer thereof,

“(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

(d) PAYMENT BY OTHER MEANS.—

“(1) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

“(A) specify which methods of payment by commercially acceptable means will be acceptable;

“(B) specify when payment by such means will be considered received;

“(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary; and

“(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

“(2) AUTHORITY TO ENTER INTO CONTRACTS.—Notwithstanding section 3718(f) of

title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services relating to receiving payment by other means when cost beneficial to the Government.

“(3) SPECIAL PROVISIONS FOR USE OF CREDIT CARDS.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

“(A) a payment of internal revenue taxes (or a payment of internal revenue stamps) by a person by use of a credit card shall not be subject to section 161 of the Truth-in-Lending Act (15 U.S.C. 1666), to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the credit card account such as a computational error or numerical transposition in the credit card transaction or an issue as to whether the person authorized payment by use of the credit card;

“(B) a payment of internal revenue taxes (or a payment for internal revenue stamps) shall not be subject to section 170 of the Truth in Lending Act (15 U.S.C. 1666i), or to any similar provisions of State law;

“(C) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a debit card shall not be subject to section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the debit card account such as a computational error or numerical transposition in the debit card transaction or an issue as to whether the person authorized payment by use of the debit card;

“(D) the term ‘creditor’ under section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) shall not include the Secretary with respect to credit card transactions in payment of internal revenue taxes (or payment for internal revenue stamps); and

“(E) notwithstanding any other provision of law to the contrary, in the case of payment made by credit card or debit card transaction in an amount owed to a person as a result of the correction of an error under section 161 of the Truth in Lending Act (15 U.S.C. 1666) or section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693(f)), the Secretary is authorized to provide such amount to such person as a credit to that person’s credit card or debit card account through the applicable credit card or debit card system.

“(e) CONFIDENTIALITY OF INFORMATION.—

“(1) IN GENERAL.—Except as otherwise authorized by this subsection, no person may use or disclose any information relating to credit or debit card transactions obtained pursuant to section 6103(k)(8) other than for purposes directly related to the processing of such transactions, or the billing or collection of amounts charged or debited pursuant thereto.

“(2) EXCEPTIONS.—

“(A) Debit or credit card issuers or others acting on behalf of such issuers may also use and disclose such information for purposes directly related to servicing an issuer’s accounts.

“(B) Debit or credit card issuers or others directly involved in the processing of credit or debit card transactions or the billing or collection of amounts charged or debited thereto may also use and disclose such information for purposes directly related to—

“(i) statistical risk and profitability assessment,

“(ii) transferring receivables, accounts, or interest therein,

“(iii) auditing the account information,

“(iv) complying with Federal, State, or local law, and

“(v) properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities.

“(3) PROCEDURES.—Use and disclosure of information under this paragraph shall be made only to the extent authorized by written procedures promulgated by the Secretary.

“(4) CROSS REFERENCE.—

“**For provision providing for civil damages for violation of paragraph (1), see section 7431.**”

(b) SEPARATE APPROPRIATION REQUIRED FOR PAYMENT OF CREDIT CARD FEES.—No amount may be paid by the United States to a credit card issuer for the right to receive payments of internal revenue taxes by credit card without a separate appropriation therefor.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 64 is amended by striking the item relating to section 6311 and inserting the following:

“Sec. 6311. Payment of tax by commercially acceptable means.”

(d) AMENDMENTS TO SECTION 6103 AND 7431 WITH RESPECT TO DISCLOSURE AUTHORIZATION.—

(1) Subsection (k) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph—

“(8) DISCLOSURE OF INFORMATION TO ADMINISTRATOR SECTION 6311.—The Secretary may disclose returns or return information to financial institutions and others to the extent the Secretary deems necessary for the administration of section 6311. Disclosures of information for purposes other than to accept payments by check or money orders shall be made only to the extent authorized by written procedures promulgated by the Secretary.”

(2) Section 7431 (relating to civil damages for unauthorized disclosure of returns and return information) is amended by adding at the end the following new subsection:

“(g) SPECIAL RULE FOR INFORMATION OBTAINED UNDER SECTION 6103(k)(8).—For purposes of this section, any reference to section 6103 shall be treated as including a reference to section 6311(e).”

(3) Section 6103(p)(3)(A) is amended by striking “or (6)” and inserting “(6), or (8)”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day which is 9 months after the date of the enactment of this Act.

#### SEC. 206. RETURN-FREE TAX SYSTEM.

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary’s delegate shall develop procedures for the implementation of a return-free tax system under which individuals would be permitted to comply with the Internal Revenue Code of 1986 without making the return required under section 6012 of such Code for taxable years beginning after 2007.

(b) REPORT.—Not later than June 30 of each calendar year after 1999, such Secretary shall report to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on—

(1) the procedures developed pursuant to subsection (a),

(2) the number and classes of taxpayers that would be permitted to use the procedures developed pursuant to subsection (a),

(3) the changes to the Internal Revenue Code of 1986 that could enhance the use of such a system, and

(4) what additional resources the Internal Revenue Service would need to implement such a system.

#### SEC. 207. ACCESS TO ACCOUNT INFORMATION.

Not later than December 31, 2006, the Secretary of the Treasury or the Secretary’s

delegate shall develop procedures under which a taxpayer filing returns electronically would be able to review the taxpayer’s account electronically, including all necessary safeguards to ensure the privacy of such account information.

### TITLE III—TAXPAYER PROTECTION AND RIGHTS

#### SEC. 301. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

(a) IN GENERAL.—Section 7811(a) (relating to taxpayer assistance orders) is amended—

(1) by striking “Upon application” and inserting the following:

“(1) IN GENERAL.—Upon application”,

(2) by moving the text 2 ems to the right, and

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

“(2) DETERMINATION OF HARDSHIP.—For purposes of determining whether a taxpayer is suffering or about to suffer a significant hardship, the Taxpayer Advocate should consider—

“(A) whether the Internal Revenue Service employee to which such order would issue is following applicable published administrative guidance, including the Internal Revenue Manual,

“(B) whether there is an immediate threat of adverse action,

“(C) whether there has been a delay of more than 30 days in resolving taxpayer account problems, and

“(D) the prospect that the taxpayer will have to pay significant professional fees for representation.”

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

#### SEC. 302. EXPANSION OF AUTHORITY TO AWARD COSTS AND CERTAIN FEES.

(a) AUTHORITY TO AWARD HIGHER ATTORNEY’S FEES BASED ON COMPLEXITY OF ISSUES.—Clause (iii) of section 7430(c)(1)(B) (relating to the award of costs and certain fees) is amended by inserting “, or the difficulty of the issues presented in the case or the local availability of tax expertise,” before “justifies a higher rate”.

(b) AWARD OF ADMINISTRATIVE COSTS INCURRED AFTER 30-DAY LETTER.—

(1) Paragraph (2) of section 7430(c) is amended by striking the last sentence and insert the following:

“Such term shall only include costs incurred on or after whichever of the following is the earliest: (i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals, (ii) the date of the notice of deficiency, or (iii) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent.”

(2) Subparagraph (B) of section 7430(c)(7) is amended by striking “or” at the end of clause (i), by striking the period at the end of clause (ii) and inserting “, or”, and by adding at the end the following new clause:

“(iii) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent.”

(c) AWARD OF FEES FOR CERTAIN ADDITIONAL SERVICES.—Paragraph (3) of section 7430(c) is amended by adding at the end the following new sentence: “Such term also includes such amounts as the court calculates, based on hours worked and costs expended, for services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service and who represents the taxpayer for no more than a nominal fee.”



(d) DETERMINATION OF PREVAILING PARTY.—Paragraph (4) of section 7430(c) is amended—

(A) by inserting at the end of subparagraph (A) the following new flush sentence:

“For purposes of this section, such section 2412(d)(2)(B) shall be applied by substituting ‘\$5,000,000’ for the amount otherwise applicable to individuals, and ‘\$35,000,000’ for the amount otherwise applicable to businesses.”, and

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

“(D) SAFE HARBOR.—The position of the United States was not substantially justified if the United States has not prevailed on the same issue in at least 3 United States Courts of Appeal.”

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings beginning after the date of the enactment of this Act.

**SEC. 303. CIVIL DAMAGES FOR NEGLIGENCE IN COLLECTION ACTIONS.**

(a) IN GENERAL.—Section 7433 (relating to civil damages for certain unauthorized collection actions) is amended—

(1) in subsection (a), by inserting “, or by reason of negligence,” after “recklessly or intentionally”, and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting “(\$100,000, in the case of negligence)” after “\$1,000,000”, and

(B) in paragraph (1), by inserting “or negligent” after “reckless or intentional”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to actions of officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

**SEC. 304. DISCLOSURE OF CRITERIA FOR EXAMINATION SELECTION.**

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary’s delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, incorporate into the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) a statement which sets forth in simple and nontechnical terms the criteria and procedures for selecting taxpayers for examination. Such statement shall not include any information the disclosure of which would be detrimental to law enforcement, but shall specify the general procedures used by the Internal Revenue Service, including the extent to which taxpayers are selected for examination on the basis of information available in the media or on the basis of information provided to the Internal Revenue Service by informants.

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—Such Secretary shall transmit drafts of the statement required under subsection (a) (or proposed revisions to any such statement) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

**SEC. 305. ARCHIVAL OF RECORDS OF INTERNAL REVENUE SERVICE.**

(a) IN GENERAL.—Subsection (1) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

“(16) DISCLOSURE TO NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.—The Secretary shall, upon written request from the Archivist of the United States, disclose to the Archivist all records of the Internal Revenue Service for purposes of scheduling such records for destruction or for retention in the National Archives. Any such information that is retained in the National Archives

shall not be disclosed without the express written approval of the Secretary.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made by the Archivist after the date of the enactment of this Act.

**SEC. 306. TAX RETURN INFORMATION.**

The Joint Committee on Taxation shall convene a study of the scope and use of provisions regarding taxpayer confidentiality, and shall report the findings of such study, together with such recommendations as it deems appropriate, to the Congress no later than one year after the date of the enactment of this Act. Such study shall be led by a panel of experts, to be appointed by the Joint Committee on Taxation, which shall examine the present protections for taxpayer privacy, the need for third parties to use tax return information, and the ability to achieve greater levels of voluntary compliance by allowing the public to know who is legally required to do so, but does not file tax returns.

**SEC. 307. FREEDOM OF INFORMATION.**

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary’s delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, develop procedures under which expedited access will be granted to requests under section 551 of title 5, United States Code, when—

(1) there exists widespread and exceptional media interest in the requested information, and

(2) expedited processing is warranted because the information sought involves possible questions about the government’s integrity which affect public confidence.

In addition, such procedures shall require the Internal Revenue Service to provide an explanation to the person making the request if the request is not satisfied within 30 days, including a summary of actions taken to date and the expected completion date. Finally, to the extent that any such request is not satisfied in full within 60 days, such person may seek a determination of whether such request should be granted by the appropriate Federal district court.

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—Such Secretary shall transmit drafts of the procedures required under subsection (a) (or proposed revisions to any such procedures) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

**SEC. 308. OFFERS-IN-COMPROMISE.**

(a) IN GENERAL.—Section 7122 (relating to offers-in-compromise) is amended by adding at the end the following new subsection:

“(c) ALLOWANCES.—The Secretary shall develop and publish schedules of national and local allowances to ensure that taxpayers entering into a compromise have an adequate means to provide for basic living expenses.”

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

**SEC. 309. ELIMINATION OF INTEREST DIFFERENTIAL ON OVERPAYMENTS AND UNDERPAYMENTS.**

(a) IN GENERAL.—Subsection (a) of section 6621 (relating to the determination of rate of interest) is amended to read as follows:

“(a) GENERAL RULE.—

“(1) RATE.—The rate established under this section shall be the sum of—

“(A) the Federal short-term rate determined under subsection (b), plus

“(B) the number of percentage points specified by the Secretary.

“(2) DETERMINATION OF PERCENTAGE POINTS.—The number of percentage points

specified by the Secretary for purposes of paragraph (1)(B) shall be the number which the Secretary estimates will result in the same net revenue to the Treasury as would have resulted without regard to the amendments made by section 309 of the Internal Revenue Service Restructuring and Reform Act of 1997.”

(b) CONFORMING AMENDMENTS.—

(1) Section 6621 is amended by striking subsection (c).

(2) The following provisions are each amended by striking “overpayment rate” and inserting “rate”: Sections 42(j)(2)(B), 167(g)(2)(C), 460(b)(2)(C), 6343(c), 6427(i)(3)(B), 6611(a), and 7426(g).

(3) The following provisions are each amended by striking “underpayment rate” and inserting “rate”: Sections 42(k)(4)(A)(ii), 148(f)(4)(C)(x)(II), 148(f)(7)(C)(ii), 453A(c)(2)(B), 644(a)(2)(B), 852(e)(3)(A), 4497(c)(2), 6332(d)(1), 6601(a), 6602, 6654(a)(1), 6655(a)(1), and 6655(h)(1).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply for purposes of determining interests for periods after the date of the enactment of this Act.

**SEC. 310. ELIMINATION OF APPLICATION OF FAILURE TO PAY PENALTY DURING PERIOD OF INSTALLMENT AGREEMENT.**

(a) IN GENERAL.—Subsection (c) of section 6651 (relating to the penalty for failure to file tax return or to pay tax) is amended by adding at the end the following new paragraph:

“(3) TOLLING DURING PERIOD OF INSTALLMENT AGREEMENT.—If the amount required to be paid is the subject of an agreement for payment of tax liability in installments made pursuant to section 6159, the additions imposed under subsection (a) shall not apply so long as such agreement remains in effect.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to agreements entered into after the date of the enactment of this Act.

**SEC. 311. SAFE HARBOR FOR QUALIFICATION FOR INSTALLMENT AGREEMENTS.**

(a) IN GENERAL.—Subsection (a) of section 6159 (relating to agreements for payment of tax liability in installments) is amended—

(1) by striking “The Secretary is” and inserting the following:

“(1) IN GENERAL.—The Secretary is”,

(2) by moving the test 2 ems to the right, and

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

“(2) SAFE HARBOR.—The Secretary shall enter into an agreement to accept the payment of a tax liability in installments if—

“(A) the amount of such liability does not exceed \$10,000,

“(B) the taxpayer has not failed to file any tax return or pay any tax required to be shown thereon during the immediately preceding 5 years, and

“(C) the taxpayer has not entered into any prior installment agreement under this paragraph.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into after the date of the enactment of this Act.

**SEC. 312. PAYMENT OF TAXES.**

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall establish such rules, regulations, and procedures as are necessary to require payment of taxes by check or money order to be made payable to the Treasurer, United States of America.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

**SEC. 313. LOW INCOME TAXPAYER CLINICS.**

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

**“SEC. 7525. LOW INCOME TAXPAYER CLINICS.**

“(a) IN GENERAL.—The Secretary shall make grants to provide matching funds for the development, expansion, or continuation of qualified low income taxpayer clinics.

“(b) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED LOW INCOME TAXPAYER CLINIC.—

“(A) IN GENERAL.—The term ‘qualified low income taxpayer clinic’ means a clinic that—

“(i) represents low income taxpayers in controversies with the Internal Revenue Service,

“(ii) operates programs to inform individuals for whom English is a second language about their rights and responsibilities under this title, and

“(iii) does not charge more than a nominal fee for its services except for reimbursement of actual costs incurred.

“(B) REPRESENTATION OF LOW INCOME TAXPAYERS.—A clinic meets the requirements of subparagraph (A)(i) if—

“(i) at least 90 percent of the taxpayers represented by the clinic have income which does not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget, and

“(ii) the amount in controversy for any taxable year generally does not exceed the amount specified in section 7463.

“(2) CLINIC.—The term ‘clinic’ includes—

“(A) a clinical program at an accredited law school in which students represent low income taxpayers in controversies arising under this title, and

“(B) an organization exempt from tax under section 501(c) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives.

“(3) QUALIFIED REPRESENTATIVE.—The term ‘qualified representative’ means any individual (whether or not an attorney) who is authorized to practice before the Internal Revenue Service or the applicable court.

“(c) SPECIAL RULES AND LIMITATIONS.—

“(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than \$3,000,000 per year (exclusive of costs of administering the program) to grants under this section.

“(2) LIMITATION ON INDIVIDUAL GRANTS.—A grant under this section shall not exceed \$100,000 per year.

“(3) MULTI-YEAR GRANTS.—Upon application of a qualified low income taxpayer clinic, the Secretary is authorized to award a multi-year grant not to exceed 3 years.

“(4) CRITERIA FOR AWARDS.—In determining whether to make a grant under this section, the Secretary shall consider—

“(A) the numbers of taxpayers who will be served by the clinic, including the number of taxpayers in the geographical area for whom English is a second language,

“(B) the existence of other low income taxpayer clinics serving the same population,

“(C) the quality of the program offered by the low income taxpayer clinic, including the qualifications of its administrators and qualified representatives, and its track record, if any, in providing service to low income taxpayers, and

“(D) alternative funding sources available to the clinic, including amounts received from other grants and contributions, and the endowment and resources of the educational institution sponsoring the clinic.

“(5) REQUIREMENT OF MATCHING FUNDS.—A low income taxpayer clinic must provide matching funds on a dollar for dollar basis for all grants provided under this section. Matching funds may include—

“(A) the salary (including fringe benefits) of a faculty member at an educational institution who is teaching in the clinic;

“(B) the salaries of administrative personnel employed in the clinic; and

“(C) the cost of equipment used in the clinic.

Indirect expenses, including general overhead of the educational institution sponsoring the clinic, shall not be counted as matching funds.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new section:

“Sec. 7525. Low income taxpayer clinics.”

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 314. JURISDICTION OF THE TAX COURT.**

(a) INTEREST DETERMINATIONS.—Subsection (c) of section 7481 (relating to the date when Tax Court decisions become final) is amended—

(1) by inserting “or underpayment” after “overpayment” each place it appears, and

(2) by striking “petition” in paragraph (3) and inserting “motion”.

(b) EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX.—Section 6166 (relating to the extension of time for payment of estate tax) is amended—

(1) by redesignating subsection (k) as subsection (l), and

(2) by inserting after subsection (j) the following new subsection:

“(k) JUDICIAL REVIEW.—The Tax Court shall have jurisdiction to review disputes regarding initial or continuing eligibility for extensions of time for payment under this section, including disputes regarding the proper amount of installment payments required herein.”

(c) SMALL CASE CALENDAR.—

(1) Subsection (a) of section 7463 (relating to disputes involving \$10,000 or less) is amended by striking “\$10,000” each place it appears and inserting “\$25,000”.

(2) The section hearing for section 7463 is amended by striking “\$10,000” and inserting “\$25,000”.

(3) The item relating to section 7463 in the table of sections for part II of subchapter C of chapter 76 is amended by striking “\$10,000” and inserting “\$25,000”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commencing after the date of the enactment of this Act.

**SEC. 315. CATALOGING COMPLAINTS.**

(a) IN GENERAL.—The Commissioner of Internal Revenue shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, develop procedures to catalog and review taxpayer complaints of misconduct by Internal Revenue Service employees. Such procedures should include guidelines for internal review and discipline of employees, as warranted by the scope of such complaints.

(b) HOTLINE.—The Commissioner for Internal Revenue shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, establish a toll-free telephone number for taxpayers to register complaints of misconduct by Internal Revenue Service employees, and shall publish such number in Publication 1.

**SEC. 316. PROCEDURES INVOLVING TAXPAYER INTERVIEWS.**

(a) IN GENERAL.—Paragraph (1) of section 7521(b) (relating to procedures involving tax-

payer interviews) is amended to read as follows:

“(1) EXPLANATION OF PROCESSES.—An officer or employee of the Internal Revenue Service shall—

“(A) before or at an initial interview, provide to the taxpayer—

“(i) in the case of an in-person interview with the taxpayer relating to the determination of any tax, an explanation of the audit process and the taxpayer’s rights under such process, or

“(ii) in the case of an in-person interview with the taxpayer relating to the collection of any tax, an explanation of the collection process and the taxpayer’s rights under such process, and

“(B) before an in-person initial interview with the taxpayer relating to the determination of any tax—

“(i) inquire whether the taxpayer is represented by an individual described in subsection (c),

“(2) explain that the taxpayer has the right to have the interview take place in a reasonable place and that such place does not have to be the taxpayer’s home,

“(iii) explain the reasons for the selection of the taxpayer’s return for examination, and

“(iv) provide the taxpayer with a written explanation of the applicable burdens of proof on taxpayers and the Internal Revenue Service.

If the taxpayer is represented by an individual described in subsection (c), the interview may not proceed without the presence of such individual unless the taxpayer consents.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to interviews and examinations taking place after the date of the enactment of this Act.

**SEC. 317. EXPLANATION OF JOINT AND SEVERAL LIABILITY.**

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary’s delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, establish procedures to clearly alert taxpayers of their joint and several liabilities on all tax forms, publications, and instructions. Such procedures shall include explanations of the possible consequences of joint and several liability.

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—Such Secretary shall transmit drafts of the procedures required under subsection (a) (or proposed revisions to any such procedures) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

**SEC. 318. PROCEDURES RELATING TO EXTENSIONS OF STATUTE OF LIMITATIONS BY AGREEMENT.**

(a) IN GENERAL.—Paragraph (4) of section 6501(c) (relating to the period for limitations on assessment and collection) is amended—

(1) by striking “Where” and inserting the following:

“(A) IN GENERAL.—Where”,

(2) by moving the text 2 ems to the right, and

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

“(B) NOTICE TO TAXPAYER OF RIGHT TO REFUSE OR LIMIT EXTENSION.—The Secretary shall notify the taxpayer of the taxpayer’s right to refuse to extend the period of limitations, or to limit such extension to particular issues, on each occasion when the taxpayer is requested to provide such consent.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to requests to extend the period of limitations made after the date of the enactment of this Act.

**SEC. 319. REVIEW OF PENALTY ADMINISTRATION.**

The Taxpayer Advocate shall prepare a study and provide an independent report to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation, no later than July 30, 1998, reviewing the administration and implementation by the Internal Revenue Service of the penalty reform recommendations made in the Omnibus Budget Reconciliation Act of 1989, including legislative and administrative recommendations to simplify penalty administration and reduce taxpayer burden.

**SEC. 320. STUDY OF TREATMENT OF ALL TAXPAYERS AS SEPARATE FILING UNITS.**

The Secretary of the Treasury or his delegate and the Comptroller General of the United States shall each conduct separate studies on the feasibility of treating each individual separately for purposes of the Internal Revenue Code of 1986, including recommendations for eliminating the marriage penalty, addressing community property issues, and reducing burden for divorced and separated taxpayers. The reports of each study shall be delivered to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation no later than 180 days after the date of the enactment of this Act.

**SEC. 321. STUDY OF BURDEN OF PROOF.**

The Comptroller General of the United States shall prepare a report on the burdens of proof for taxpayers and the Internal Revenue Service for controversies arising under the Internal Revenue Code of 1986, which shall be delivered to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation no later than 180 days after the date of the enactment of this Act. Such report shall highlight the differences between these burdens and the burdens imposed in other disputes with the Federal Government, and should comment on the impact of changing these burdens on tax administration and taxpayer rights.

**SEC. 322. NOTICE OF DEFICIENCY TO SPECIFY RIGHT TO CONTACT TAXPAYER ADVOCATE**

(a) IN GENERAL.—Section 6212(a) (relating to notice of deficiency) is amended by adding at the end the following: "Such notice shall include a notice to the taxpayer of the taxpayer's right to contact a local office of the taxpayer advocate and the location and telephone number of the nearest such office."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of the enactment of this act.

**TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE****Subtitle A—Oversight****SEC. 401. COORDINATED OVERSIGHT HEARINGS.**

(a) Subchapter A of chapter 80 (relating to application of internal revenue laws) is amended by adding after section 7811 the following new section:

**"SEC. 7821. COORDINATED OVERSIGHT HEARINGS.**

"(a) JOINT HEARINGS.—On or before April 1 of each calendar year after 1997, there shall be a joint hearing of two members of the majority and one member of the minority from each of the Committees on Finance, Appropriations, and Government Affairs of the Senate, and the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, to review the strategic plans

and budget for the Internal Revenue Service. After the conclusion of the annual filing season, there shall be a second annual joint hearing to review other matters outlined in subsection (b).

"(b) In preparation for the annual joint hearings provided for under subsection (a), the staffs of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, shall, on an annual rotating basis, prepare reports with respect to—

(1) strategic and business plans for the Internal Revenue Service;

(2) progress of the Internal Revenue Service in meeting its objectives;

(3) the budget for the Internal Revenue Service and whether it supports its strategic objectives;

(4) progress of the Internal Revenue Service in improving taxpayer service and compliance;

(5) progress of the Internal Revenue Service on technology modernization; and

(6) the annual filing season."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**Subtitle B—Budget****SEC. 412. FUNDING FOR CENTURY DATE CHANGE.**

It is the sense of Congress that funding for the Internal Revenue Service efforts to resolve the century date change computing problems should be funded fully to provide for certain resolution of such problems.

**SEC. 413. FINANCIAL MANAGEMENT ADVISORY GROUP.**

The Commissioner shall convene a financial management advisory group consisting of individuals with expertise in governmental accounting and auditing from both the private sector and the Government to advise the Commissioner on financial management issues, including—

(1) the continued partnership between the Internal Revenue Service and the General Accounting Office;

(2) the financial accounting aspects of the Internal Revenue Service's system modernization;

(3) the necessity and utility of year-round auditing; and

(4) the Commissioner's plans for improving its financial management system.

**Subtitle C—Tax Law Complexity****SEC. 421. ROLE OF THE INTERNAL REVENUE SERVICE.**

It is the sense of Congress that the Internal Revenue Service should provide the Congress with an independent view of tax administration, and that during the legislative process, the tax writing committees of the Congress should hear from front-line technical experts at the Internal Revenue Service with respect to the administrability of pending amendments to the Internal Revenue Code of 1986.

**SEC. 422. TAX COMPLEXITY ANALYSIS.**

(a) IN GENERAL.—Chapter 92 (relating to powers and duties of the Joint Committee on Taxation) is amended by adding at the end the following new section:

**"SEC. 8024. TAX COMPLEXITY ANALYSIS.**

"(a) IN GENERAL.—

"(1) REPORTED BILLS AND RESOLUTIONS.—When a committee of the Senate or House of Representatives reports a bill or joint resolution that includes any provision amending the Internal Revenue Code of 1986, the report for such bill or joint resolution shall contain a Tax Complexity Analysis prepared by the Joint Committee on Taxation for each provision therein.

"(2) AMENDED BILLS AND JOINT RESOLUTIONS; CONFERENCE REPORTS.—If a bill or joint resolution is passed in an amended

form (including if passed by one House as an amendment in the nature of a substitute for the text of a bill or joint resolution from the other House) or is reported by a committee of conference in amended form, and the amended form contains an amendment to the Internal Revenue Code of 1986 not previously considered by either House, then the committee of conference shall ensure that the Joint Committee on Taxation prepares a Tax Complexity Analysis for each provision therein.

"(b) CONTENT OF COMPLEXITY ANALYSIS.—Each Tax Complexity Analysis must address—

"(1) whether the provision is new, modifies or replaces existing law, and whether hearings were held to discuss the proposal and whether the Internal Revenue Service provided input as to its administrability;

"(2) when the provision becomes effective, and corresponding compliance requirements on taxpayers (e.g., effective on date of enactment, phased in, or retroactive);

"(3) whether new Internal Revenue Service forms or worksheets are needed, whether existing forms or worksheets must be modified, and whether the effective date allows sufficient time for the Internal Revenue Service to prepare such forms and educate taxpayers;

"(4) necessity of additional interpretive guidance (e.g., regulations, rulings, and notices);

"(5) the extent to which the proposal relies on concepts contained in existing law, including definitions;

"(6) effect on existing record keeping requirements and the activities of taxpayers, complexity of calculations and likely behavioral responses, and standard business practices and resource requirements;

"(7) number, type, and sophistication of affected taxpayers; and

"(8) whether the proposal requires the Internal Revenue Service to assume responsibilities not directly related to raising revenue which could be handled through another Federal agency.

"(c) LEGISLATION SUBJECT TO POINT OF ORDER.—

"(1) IN GENERAL.—It shall not be in order in the Senate or the House of Representatives to consider any bill, joint resolution, amendment, motion, or conference report that is not accompanied by a Tax Complexity Analysis for each provision therein.

"(2) IN THE SENATE.—Upon a point of order being made by any Senator against any provision under this section, and the point of order being sustained by the Chair, such specific provision shall be deemed stricken from the bill, resolution, amendment, amendment in disagreement, or conference report, and may not be offered as an amendment from the floor.

"(3) IN THE HOUSE OF REPRESENTATIVES.—

"(A) It shall not be in order in the House of Representatives to consider a rule or order that waives the application of paragraph (1).

"(B) In order to be cognizable by the Chair, a point of order under this section must specify the precise language on which it is premised.

"(C) As disposition of points of order under this section, the Chair shall put the question of consideration with respect to the proposition that is the subject of the points of order.

"(D) A question of consideration under this section shall be debatable for 10 minutes by each Member initiating a point of order and for 10 minutes by an opponent on each point of order, but shall otherwise be decided without intervening motion except one that the House adjourn or that the Committee of the Whole rise, as the case may be.

"(E) The disposition of the question of consideration under this subsection with respect

to a bill or joint resolution shall be considered also to determine the question of consideration under this subsection with respect to an amendment made in order as original text.

“(d) RESPONSIBILITIES OF THE COMMISSIONER.—The Commissioner shall provide the Joint Committee on Taxation with such information as is necessary to prepare a Tax Complexity Analysis on each instance in which such an analysis is required.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 92 is amended by adding at the end the following new item:

“Sec. 8024. Tax complexity analysis.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to legislation considered on or after the earlier of January 1, 1998, or the 90th day after the date of the enactment of an additional appropriation to carry out section 8024 of the Internal Revenue Code of 1986, as added by this section.

**SEC. 423. SIMPLIFIED TAX AND WAGE REPORTING SYSTEM.**

(a) POLICY.—It is the policy of the Congress that employers should have a single point of filing tax and wage reporting information.

(b) ELECTRONIC FILING OF INFORMATION RETURNS.—The Social Security Administration shall establish procedures no later than December 31, 1998, to accept electronic submissions of tax and wage reporting information from employers, and to forward such information to the Internal Revenue Service, and to the tax administrators of the States, upon request and reimbursement of expenses. For purposes of this paragraph, recipients of tax and wage reporting information from the Social Security Administration shall reimburse the Social Security Administration for its incremental expenses associated with accepting and furnishing such information.

**SEC. 424. COMPLIANCE BURDEN ESTIMATES.**

The Joint Committee on Taxation shall prepare a study of the feasibility of developing a baseline estimate of taxpayers' compliance burdens against which future legislative proposals could be measured.

**TITLE V—CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION**

**SEC. 501. CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION.**

(a) IN GENERAL.—Subsection (a) of section 404 is amended by adding at the end the following new paragraph:

“(11) DETERMINATIONS RELATING TO DEFERRED COMPENSATION.—

“(A) IN GENERAL.—For purposes of determining under this section—

“(i) whether compensation of an employee is deferred compensation, and

“(ii) when deferred compensation is paid, no amount shall be treated as received by the employee, or paid, until it is actually received by the employee.

“(B) EXCEPTION.—Subparagraph (A) shall not apply to severance pay.”

(b) SICK LEAVE PAY TREATED LIKE VACATION PAY.—Paragraph (5) of section 404(a) is amended by inserting “or sick leave pay” after “vacation pay”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after October 8, 1997.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for its first taxable year ending after October 8, 1997—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the tax-

payer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first taxable year.

**BOXER AMENDMENTS NOS. 1539–1540**

(Ordered to lie on the table.)

Mrs. BOXER submitted two amendments intended to be proposed by her to the bill, H.R. 2646, supra; as follows:

**AMENDMENT No. 1539**

At the end of the bill, add the following:

**SEC. 4. INCENTIVES FOR AFTERSCHOOL PROGRAMS.**

Section 226(d)(5) of Public Law 105-34 (The Taxpayer Relief Act of 1997) is amended by adding the following:

“(E) providing productive activities during after school hours, including, but not limited to, mentoring programs, tutoring, recreational activities, and technology training.”

**AMENDMENT No. 1540**

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “After School Education and Safety Act of 1997”.

**SEC. 2. PURPOSE.**

The purpose of this Act is to improve academic and social outcomes for students by providing productive activities during after school hours.

**SEC. 3. FINDINGS.**

Congress makes the following findings:

(1) Today's youth face far greater social risks than did their parents and grandparents.

(2) Students spend more of their waking hours alone, without supervision, companionship, or activity than the students spend in school.

(3) Law enforcement statistics show that youth who are ages 12 through 17 are most at risk of committing violent acts and being victims of violent acts between 3 p.m. and 6 p.m.

(4) Greater numbers of students are failing in school and the consequences of academic failure are more dire in 1997 than ever before.

**SEC. 4. GOALS.**

The goals of this Act are as follows:

(1) To increase the academic success of students.

(2) To improve the intellectual, social, physical, and cultural skills of students.

(3) To promote safe and healthy environments for students.

(4) To prepare students for workforce participation.

(5) To provide alternatives to drug, alcohol, tobacco, and gang activity.

**SEC. 5. DEFINITIONS.**

In this Act:

(1) SCHOOL.—The term “school” means a public kindergarten, or a public elementary school or secondary school, as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) SECRETARY.—The term “Secretary” means the Secretary of Education.

**SEC. 6. PROGRAM AUTHORIZED.**

The Secretary is authorized to carry out a program under which the Secretary awards grants to schools to enable the schools to carry out the activities described in section 7(a).

**SEC. 7. AUTHORIZED ACTIVITIES; REQUIREMENTS.**

(a) AUTHORIZED ACTIVITIES.—

(1) REQUIRED.—Each school receiving a grant under this Act shall carry out at least 2 of the following activities:

(A) Mentoring programs.

(B) Academic assistance.

(C) Recreational activities.

(D) Technology training.

(2) PERMISSIVE.—Each school receiving a grant under this Act may carry out any of the following activities:

(A) Drug, alcohol, and gang, prevention activities.

(B) Health and nutrition counseling.

(C) Job skills preparation activities.

(b) TIME.—A school shall provide the activities described in subsection (a) only after regular school hours during the school year.

(c) SPECIAL RULE.—Each school receiving a grant under this Act shall carry out activities described in subsection (a) in a manner that reflects the specific needs of the population, students, and community to be served.

(d) LOCATION.—A school shall carry out the activities described in subsection (a) in a school building or other public facility designated by the school.

(e) ADMINISTRATION.—In carrying out the activities described in subsection (a), a school is encouraged—

(1) to request volunteers from the business and academic communities to serve as mentors or to assist in other ways;

(2) to request donations of computer equipment; and

(3) to work with State and local park and recreation agencies so that activities that are described in subsection (a) and carried out prior to the date of enactment of this Act are not duplicated by activities assisted under this Act.

**SEC. 8. APPLICATIONS.**

Each school desiring a grant under this Act shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

(1) identify how the goals set forth in section 4 shall be met by the activities assisted under this Act;

(2) provide evidence of collaborative efforts by students, parents, teachers, site administrators, and community members in the planning and administration of the activities;

(3) contain a description of how the activities will be administered;

(4) demonstrate how the activities will utilize or cooperate with publicly or privately funded programs in order to avoid duplication of activities in the community to be served;

(5) contain a description of the funding sources and in-kind contributions that will support the activities; and

(6) contain a plan for obtaining non-Federal funding for the activities.

**SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this Act \$50,000,000 for each of the fiscal years 1998 through 2002.

**TECHNICAL CORRECTIONS TO COPYRIGHT LAW**

**HATCH AMENDMENT NO. 1541**

Mr. GRASSLEY (for Mr. HATCH) proposed an amendment to the bill, H.R. 672, to make technical amendments to certain provisions of title 17, United States Code; as follows:

On page 15, insert the following after line 8 and redesignate the succeeding sections, and references thereto, accordingly:

**SEC. 11. DISTRIBUTION OF PHONORECORDS.**

Section 303 of title 17, United States Code, is amended—