in negotiations on any treaty containing an arms control provision, United States negotiators should not agree to any provision that would have the effect of inhibiting the United States from withdrawing from the arms control provisions of that treaty in a timely fashion in the event that the supreme national interests of the United States have been jeopardized.

(7) PROHIBITION ON DE FACTO IMPLEMENTATION OF THE OTTAWA CONVENTION.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that—

(A) the President will not limit the consideration of alternatives to United States anti-personnel mines or mixed anti-tank systems solely to those that comply with with the Ottawa Convention; and

(B) in pursuit of alternatives to United States anti-personnel mines, or mixed anti-tank systems, the United States shall seek to identify, adapt, modify, or otherwise develop only those technologies that—

(i) are intended to provide military effectiveness equivalent to that provided by the relevant anti-personnel mine, or mixed anti-tank system; and

(ii) would be affordable.

(8) CERTIFICATION WITH REGARD TO INTERNATIONAL TRIBUNALS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that with respect to the Amended Mines Protocol, the Convention on Conventional Weapons, or any future protocol or amendment thereto, that the United States shall not recognize the jurisdiction of any international tribunal over the United States or any of its citizens.

(9) TACTICS AND OPERATIONAL CONCEPTS.—It is the sense of the Senate that development, adaptation, or modification of an existing or new tactic or operational concept, in and of itself, is unlikely to constitute an acceptable alternative to anti-personnel mines or mixed anti-tank systems.

(10) FINDING REGARDING THE INTERNATIONAL HUMANITARIAN CRISIS.—The Senate finds that—

(A) the grave international humanitarian crisis associated with anti-personnel mines has been created by the indiscriminate use of mines that do not meet or exceed the specifications on detectability, self-destruction, and self-deactivation contained in the Technical Annex to the Amended Mines Protocol; and

(B) United States mines that do meet such specifications have not contributed to this problem.

(11) APPROVAL OF MODIFICATIONS.—The Senate reaffirms the principle that any amendment or modification to the Amended Mines Protocol other than an amendment or modification solely of a minor technical or administrative nature shall enter into force with respect to the United States only pursuant to the treaty-making power of the President, by and with the advice and consent of the Senate, as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(12) FURTHER ARMS REDUCTIONS OBLIGATIONS.—The Senate declares its intention to consider for approval an international agreement that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner only pursuant to the treaty-making power as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(13) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally-based principles of treaty interpretation set forth in condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and condition (8) of the resolution of ratification of the CFE Flank Document, approved by the Senate on May 14, 1997.

(14) PRIMACY OF THE UNITED STATES CONSTITUTION.—Nothing in the Amended Mines Protocol requires or authorizes the enactment of legislation, or the taking of any other action, by the United States that is prohibited by the Constitution of the United States, as interpreted by the United States.

SEC. 5. DEFINITIONS.

As used in this resolution:

(1) AMENDED MINES PROTOCOL OR PROTOCOL.—The terms ''Amended Mines Protocol'' and ''Protocol'' mean the Amended Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, together with its Technical Annex, as adopted at Geneva on May 3, 1996 (contained in Senate Treaty Document 105-1).

(2) CFE FLANK DOCUMENT.—The term ''CFE Flank Document'' means the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990, done at Vienna on May 31, 1996 (Treaty Document 105–5).

(3) CONVENTION ON CONVENTIONAL WEAPONS.—The term ''Convention on Conventional Weapons'' means the Convention on Prohibitions or Restriction on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, done at Geneva on October 10, 1980 (Senate Treaty Document 103–25).

(4) OTTAWA CONVENTION.—The term ''Ottawa Convention'' means the Convention on the Prohibition of the Use, Production, Stockpiling, and Transfer of Anti-Personnel Mines and on Their Destruction, opened for signature at Ottawa December 3–4, 1997 and at the United Nations Headquarters beginning December 5, 1997.

(5) UNITED STATES INSTRUMENT OF RATIFICATION.—The term ''United States instrument of ratification'' means the instrument of ratification of the United States of the Amended Mines Protocol.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CHAFEE (for himself, Mr. MACK, and Mr. LIEBERMAN):

S. 2617. A bill to amend the Clean Air Act to authorize the President to enter into agreements to provide regulatory credit for voluntary early action to mitigate greenhouse gas emissions; to the Committee on Environment and Public Works.

By Mr. McCAIN:

S. 2618. A bill to require certain multilateral development banks and other lending institutions to implement independent third-party procurement monitoring, and for other purposes; to the Committee on Foreign Relations.

By Mr. DASCHLE:

S. 2619. A bill to amend title 38, United States Code, to improve access of veterans to emergency medical care in non-Department of Veterans Affairs medical facilities; to the Committee on Veterans Affairs.

By Mr. ROBB:

S. 2620. A bill to amend the Federal Water Pollution Control Act to establish a National Clean Water Trust Fund and to authorize the Administrator of the Environmental Protection Agency to use amounts in the Fund to carry out projects to promote the recovery of waters of the United States from damage resulting from violations of that Act, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2621. A bill to authorize the acquisition of the Valles Caldera currently managed by the Baca Land and Cattle Company, to provide for an effective land and wildlife management program for this resource within the Department of Agriculture through the private sector, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROTH (for himself, Mr. MOYNIHAN, Mr. CHAFEE, Mr. BAUCUS, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HATCH, Mr. BREAUX, Mr. D'AMATO, Mr. CONRAD, Mr. MURKOWSKI, Mr. GRAHAM, Mr. JEFFORDS, Ms. MOSELEY-BRAUN, Mr. MACK, Mr. BRYAN, and Mr. KERREY):

S. 2622. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; to the Committee on Finance.

By Mr. THOMPSON (for himself, Mr. LIEBERMAN, Mr. BROWNBACK, Mr. ROTH, and Mr. STEVENS):

S. 2623. A bill to increase the efficiency and effectiveness of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DOMENICI:

S. 2624. A bill to establish a program for training residents of low-income rural areas for, and employing the residents in, new telecommunications industry jobs located in the rural areas, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE (for himself, Mr. MACK, and Mr. LIEBERMAN):

S. 2617. A bill to amend the Clean Air Act to authorize the President to enter into agreements to provide regulatory credit for voluntary early action to mitigate greenhouse gas emissions; to the Committee on Environment and Public Works.

CREDIT FOR EARLY ACTION ACT OF 1998

Mr. CHAFEE. Mr. President, I am proud to join with Senators MACK and LIEBERMAN today to introduce the Credit for Early Action Act of 1998. This bipartisan legislation is designed to encourage voluntary, meaningful, and early efforts by industry to reduce their emissions of greenhouse gases. This is a bill to address the threat of global climate change.

Before I get into the details of this legislative proposal, let me spend a few moments discussing the science of climate change.

Human influence on the global climate in an extraordinarily complex matter that has undergone more than a century of research. Indeed, in an 1896 lecture delivered to the Stockholm Physics Society by the Nobel Prize-winning chemist, Svante Arrhenius, it was predicted that large increases in carbon dioxide (CO_2) would result in a corresponding warming of the globe.

Professor Arrhenius was the first to predict that large increases in CO_2 would result in a warming of the globe. What have the world's scientists told us at different intervals over the last one hundred years, since Mr. Arrhenius identified the warming effects of CO_2?

In 1924, a U.S. physicist speculated that industrial activity would double atmospheric CO_2 in five hundred years, around the year 2424. Current projections, however, call for a doubling sometime before 2050—some four hundred years earlier than predicted just seventy years ago!

In 1957, scientists from the Scripps Institute of Oceanography reported for the first time that much of the CO_2 emitted into the atmosphere is not absorbed by the oceans as some had argued, leaving significant amounts in the atmosphere. They are said to have called carbon dioxide emissions ''a large-scale geophysical experiment'' with the Earth's climate.

In 1967, the first reliable computer simulation calculated that global average temperatures may increase by more than four degrees Fahrenheit when atmospheric CO_2 levels are double that of preindustrial times. In 1985, a conference sponsored by the United Nations Environment Program (UNEP), the World Meteorological Organization (WMO), and the International Council of Scientific Unions forged a consensus of the international scientific community on the issue of climate change. The conference report warned that some future warming appears inevitable due to past emissions, regardless of future actions, and recommended consideration of a global treaty to address climate change.

In 1987, an ice core from Antarctica, analyzed by French and Russian scientists, revealed an extremely close correlation between CO_2 and temperature going back more than one hundred thousand years. In 1990, an appeal signed by forty-nine Novel prize winners and seven hundred members of the National Academy of Science stated, ''There is broad agreement within the scientific community that amplification of the Earth's natural greenhouse effect by the buildup of various gases introduced by human activity has the potential to produce dramatic changes in climate . . . only by taking action now can be ensure that future generations will not be put at risk.''

Also in 1990, seven hundred and forty-seven participants from one hundred sixteen countries took part in the Second world Climate Conference. The conference statement reported that, ''. . . if the increase of greenhouse gas concentrations is not limited, the predicted climate change would place stresses on natural and social systems unprecedented in the past ten thousand years.''

Finally, Mr. President, in 1995, the Intergovernmental Panel on Climate Change, representing the consensus of climate scientists worldwide, concluded that ''. . . the balance of evidence suggests that there is a discernible human influence on global climate.''

This last development is significant, because the overwhelming majority of climate scientists concluded, for the first time, that man is influencing the global climate system. That conclusion, while controversial in some quarters, was endorsed unanimously by the governments of the ninety-six countries involved in the panel's efforts.

Are these forecasted outcomes a certainty? They are not. The predictions of climate change are indeed based on numerous variables. Although scientists are improving the state of their knowledge at a rapid pace, we still have a lot to learn about the role of the sun, clouds and oceans, for example.

The question is, will we ever have absolute certainty? Will we ever be able to eliminate all of the variables? The overwhelming majority of independent, peer-reviewed scientific studies indicate that we do not have such a luxury. By the time we finally attain absolute certainty, it would likely take centuries to reverse atmospheric damage and oceanic warming.

Mr. President, I am not alone in this thinking. There are an increasing number of business leaders in our country who have arrived at the same conclusion that we need to act swiftly.

In a ''dear colleague'' letter sent out this week under my signature, I repeated a remarkable statement issued by an impressive group of companies that have joined with the newly established Pew Center on Climate Change. American Electric Power, Boeing, BP America, Enron, Lockheed Martin, 3M, Sun, United Technologies, Toyota, Weyerhaeuser, and several others said that, ''we accept the views of most scientists that enough is known about the science and environmental impacts of climate change for us to take actions to address its consequences.''

The legislation to be introduced today by Senator MACK, Senator LIEBERMAN and I proposes an exciting framework that would appropriately recognize real and immediate action to combat climate change. While the climate debate will indeed continue over the next few years, we strongly believe that there is a voluntary, incentive-based approach which can be implemented now. Congressional approval of this approach, which the three of us and others will work for early next year, will provide the certainty necessary to encourage companies to move forward with practical, near-term emission reductions.

Specifically, this legislation would provide a mechanism by which the President can enter into binding greenhouse gas reduction agreements with entities operating in the United States. Once executed, these agreements will provide credits for voluntary greenhouse gas reductions effected by those entities before 2008, or whenever we might have an imposition of any domestic or international emission reduction requirements.

Importantly, this program is designed to work within the framework of whatever greenhouse gas control requirement may eventually become applicable within the United States. The credits would be usable beginning in the first five-year budget period (2008–2012) under the Kyoto Protocol, if the Kyoto Protocol is ratified. If the Protocol is not ratified, and we end up with a domestic program to regulate or otherwise control greenhouse gas emissions, the credits would be usable in that program.

This sort of approach makes sense for a wide variety of reasons. Encouraging early reductions can begin to slow the rate of buildup of greenhouse gases in the atmosphere, helping to minimize the potential environmental risks of continued warming. Given the longevity of many climate gases, which continue to trap heat in the atmosphere for a century or more, it just makes sense to encourage practical actions now.

By guaranteeing companies credit for voluntary early reductions, the bill would allow companies to protect themselves against the potential for steep reduction requirements or excessive costs in the future. For companies that want to reduce their greenhouse gas emissions, providing credit for action now adds years to any potential compliance schedule, allowing companies to spread costs over broader time periods. A focus on early reductions can help stimulate the American search for strategies an technologies that are needed worldwide. Development of such strategies and technologies can improve American competitiveness in the $300 billion dollar global environmental marketplace.

This ''credit'' program may also make the greenhouse gas reductions achieved before regulations are in place financially valuable to the companies who make such reductions. Given the likely inclusion of market based approaches to any eventual domestic regulatory requirements, similar to the successful acid rain program of the 1990 Clean Air Act, credit earned could be traded or sold to help other companies manage their own reduction efforts.

Under a ''no credit'' approach, the status quo, it is more likely that early reduction companies will be penalized if greenhouse gas reductions are ultimately required, because their competitors who wait to reduce will get credit for later reductions. Such a ''no credit'' approach could even create perverse incentives to delay investments until emissions reductions would be credited.

In anticipation of a potential global emissions market, decisions re being made now by entrepreneurial companies and countries. For example, Russia and Japan have already concluded a trade of greenhouse gas emission credits. Private companies such as Niagara-Mohawk and Canada-based Suncor are moving forward with cross-boundary trades. Aggressive global energy companies, such as British Petroleum, AEP, and PacifiCorp are already implementing agreements in Central and

South America—sequestering carbon and developing credits against emissions—by protecting rain forests.

Mr. President, America can and should reward companies that take such positive steps to position themselves, and the US, for the environmental and economic future.

On the international side, passage by the U.S. Congress of a program to help stimulate early action will be clear example of American leadership and responsibility. Developing countries currently argue that nations such as the United States, with huge advantages in quality of life and dramatically higher per capita emissions of green house gases, should take a leadership role in the reduction of greenhouse gas emissions. And they argue that developing countries should not be asked to take steps until the U.S. begins to move forward. This bill can work directly to change that situation, therefore removing a barrier to essential developing country progress.

There it is, Mr. President. We are here today because we believe that climate change presents a serious threat. We believe it makes sense to get started now. And, as many leading American companies do, we believe that there are sensible, fair and voluntary methods to get on the right track.

We encourage our colleagues to use the time between now and next January to review this legislation carefully. We are open to suggestions. Most importantly, we are looking for others to join us in this effort.

• Ms. MACK. Mr. President, as an original cosponsor of the Credit for Early Action Act, I rise to congratulate Senator CHAFEE on its introduction, as well as the other original cosponsor, Senator LIEBERMAN, and to make several points about the bill.

The purpose of the act is simple. It is to encourage and reward voluntary actions which businesses may take to reduce emissions of ''greenhouse gases'' such as carbon dioxide. It would not require actions, but it would provide encouragement in the form of credit, credit that could be used by companies to manage future regulatory requirements, or in a market-based approach, traded or sold to other companies as they worked to meet their own obligations.

Given the uncertainty that surrounds the discussion of greenhouse gases and global warming, I can understand why some may question the need for such a bill. As one who is not convinced that we understand this issue well enough, I can understand that question. In fact, it is precisely because of the uncertainty that I think such a bill makes sense.

Of course there is a great deal of uncertainty surrounding such possible results, and frankly, as I said, I am not convinced that we know enough yet. The complexities and uncertainties associated with trying to understand the vast interactions of our climate, our atmosphere and our human impact on both, are enormous. And the consequences of actions targeted at changing our patterns of energy use can be dramatic.

But uncertainty cuts two ways, and the possibility always exists that some of these projections about impacts could be more right than wrong. Perhaps then it makes sense to provide some appropriate encouragement, so that those who want to invest in improved efficiency, those who want to find ways to make cars and factories and power production cleaner, those companies can receive some encouragement, not based on government fiat or handout, but based on getting credit for their own initiative and actions. The environmental result will likely be some lessening of the potential problems associated with possible global warming, and that just makes sense.

There is, of course, another uncertainty that gives me pause as well, and that serves as another strong reason for my interest in this bill. It is clear to me today that there is no desire on the part of this Congress to legislate requirements on carbon dioxide or any of the other ''greenhouse gases.'' I think that is the correct position.

But we cannot know today what some future Congress, perhaps a decade away, might decide to do. Perhaps the science will become more compelling. Perhaps the majority will shift back to a more regulatory minded party. Perhaps a future Senate will decide to ratify the Kyoto Protocol. Perhaps a future administration and a future majority will combine to put a regulatory structure in place that will require substantial reductions of these gases. And while we may oppose such action today, we cannot know the outcome of this future debate.

Given this regulatory uncertainty, I think a compelling argument can be made to provide protection for companies today, so that they are protected against the possibility of future requirements. What this bill will do is just that. By allowing companies to earn credit for actions that they take over the next few years, the bill will make sure that if a regulator comes to see them in the future, they can say, ''I already did my part.'' Companies can make decisions based on their own best interest, they can work to improve efficiency and reduce waste. And if this bill becomes law, they can get credit for those actions against any future regulatory controls on greenhouse gases. That seems like a good idea to me.

In closing Mr. President, I again want to congratulate Senator CHAFEE, along with our other original co-sponsor Senator LIEBERMAN, for this thoughtful, balanced approach to the uncertainty presented by the climate change issue. I am proud to be an original cosponsor of this bill, and I want to urge my colleagues to take a good look at this approach so that we can begin to move forward in earnest in the next Congress.•

• Mr. LIEBERMAN. Mr. President, I am delighted to join today with my colleagues Senator CHAFEE, the chairman of the Environment and Public Works Committee, and Senator MACK in introducing this legislation. It will provide credit, under any future greenhouse gas reduction systems we may adopt, to companies who act now to reduce their emissions of greenhouse gases. This is a voluntary, market-based approach which is a win-win situation for both American businesses and the environment. Enactment of this legislation will provide the certainty necessary to encourage companies to move forward with emission reductions now. I'm particularly pleased that the legislation grows out of principles developed in a dialog between the Environmental Defense Fund and a number of major industries.

The point of this legislation is simple. Many companies want to move forward now to reduce their greenhouse gas emissions. They don't want to wait until legislation requires them to make these reductions. For some companies reducing greenhouse gases makes good economic sense because adopting cost-effective solutions can actually save them money by improving the efficiency of their operations. Companies recognize if they reduce their greenhouse gas emissions now they will be able to add years to any potential compliance schedule, allowing companies to spread their costs over broader time periods. Acting now can help U.S. companies protect themselves against the potential for significant reductions that may be required in the future. This bill ensures they will be credited in future reduction proposals for action now.

Early action by U.S. companies will also have an enormous benefit for the environment. Early reductions can begin to slow the rate of buildup of greenhouse gases in the atmosphere, helping to minimize the environmental risks of continued global warming. Given that once emitted, many climate change gases continue to trap head for a century or more in the atmosphere, it just makes sense to encourage practical action now.

Climate change is neither an abstraction nor the object of a science fiction writer's imagination. It is real and affects us all. More than 2,500 of the world's best scientific and technical experts have linked the increase of greenhouse gases to at least some of the increase in sea level, temperature and rainfall experienced worldwide in this century. Last year was the warmest year on record, and 9 of the last 11 years were among the warmest ever recorded.

The point of this legislation is to provide an incentive for companies that want to make voluntary early reduction in emissions of greenhouse gases by guaranteeing that these companies will receive credit, once binding requirements begin, for voluntary reductions they have made before 2008. These credits will enable US companies to add years to any potential compliance schedule for reductions, allowing them to spread costs over broader time periods. These credits may also be financially valuable to companies who make the reductions. Credits earned likely could be traded or sold to help other companies manage their own reduction requirements. A focus on early reductions can also help stimulate the search for and use of new, innovative strategies and technologies that are needed to help companies both in this country and worldwide meet their reduction requirements in a cost-effective manner. Development of such strategies and technologies can improve American competitiveness in the more than $300 billion global environmental marketplace.

I'm pleased that this legislation builds on section 1605(b) of the Energy Policy Act which allowed companies to voluntarily record their emissions in greenhouse gas emissions, which I worked hard to include in the Energy Policy Act.

Mr. President, the debate about climate change is too often vested—and I believe wrongly so—in false choices between scientific findings, common sense, business investments and environmental awareness. The approach of this bill again demonstrates that these are not mutually exclusive choices, but highly compatible goals.●

By Mr. MCCAIN.

S. 2618. a bill to require certain multilateral development banks and other leading institutions to implement independent third party procurement monitoring, and for other purposes; to the Committee on Foreign Relations.

THE FAIR COMPETITION IN FOREIGN COMMERCE ACT OF 1998

● Mr. MCCAIN. Mr. President, I am proud to introduce the Fair Competition in Foreign Commerce Act of 1998, to address the serious problem of waste, fraud and abuse, resulting from bribery and corruption in international development projects. This legislation will set conditions for U.S. funding through multilateral development banks. These conditions will require the country receiving aid to adopt substantive procurement reforms, and independent third-party procurement monitoring of their international development projects.

During the cold war, banks and governments often looked the other way as pro-western leaders in developing countries treated national treasuries as their personal treasure troves. Information technologies and the resulting global economy have transformed the world in which we live into a smaller and smaller community. For example, economic turmoil in Indonesia hits home on Wall Street. Allegations of misconduct in the White House negatively impact Wall Street, which causes capital flight to other nation's stock exchanges. In today's increasingly interdependent global economy, nations are ill-advised to ignore corruption and wrongdoing in neighboring countries.

The U.S. is a vital part of the global economy. We cannot afford to look the other way when we see bribery and corruption running rampant in other countries. Bribery and corruption abroad undermine the U.S. goals of promoting democracy and accountability, fostering economic development and trade liberalization, and achieving a level playing field throughout the world for American businesses. Developing nations desperately need foreign economic assistance to break the devastating cycle of poverty and dependence.

The United States is increasingly called upon to lead multilateral assistance efforts through its participation in various lending institutions. However, it is critical that we take steps to ensure that the American taxpayer dollars are being used appropriately. The Fair Competition in Foreign Commerce Act of 1998 is designed to decrease the stifling effects of bribery and corruption in international development contracts. The Act will achieve this objective by mandating that multilateral lending institutions require that nations receiving U.S. economic assistance subject their international development projects to independent third-party procurement monitoring, and other substantive procurement reforms.

By decreasing bribery and corruption in international development procurements, this legislation will (1) enable U.S. businesses to become more competitive when bidding against foreign firms which secure government contracts through bribery and corruption; (2) encourage additional direct investment to developing nations, thus increasing their economic growth, and (3) increase opportunities for U.S. businesses to export to these nations as their economies expand and mature.

Multilateral lending efforts are only effective in spurring economic development if the funds are used to further the intended development projects. The American taxpayers make substantial contributions to the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, and the African Development Fund. These contributions provide significant funding for major international development projects. Unfortunately, these international development projects are often plagued by fraud and corruption, waste and inefficiency, and other misuse of funding.

This inefficient use of valuable taxpayer dollars is bad for the U.S. and the nation receiving the economic assistance. When used for its intended purpose, foreign economic aid yields short and long term benefits to U.S. businesses. Direct foreign aid assists developing nations to develop their infrastructure. A developed infrastructure is vital to creating and sustaining a modern dynamic economy. Robust new economies create new markets for U.S. businesses to export their goods and services. Exports are key to the U.S. role in the constantly expanding and increasingly competitive global economy. Emerging economies of today become our trading partners of tomorrow. However, foreign economic assistance will only promote economic development if it is used for its intended purpose, and not to line the pockets of foreign bureaucrats and their well-connected political allies.

The current laws and procedures designed to detect and deter corruption after the fact are inadequate and meaningless. This bill seeks to ensure that U.S. taxpayers' hard-earned dollars contributed to international projects are used appropriately, by detecting and eliminating bribery and corruption before they can taint the integrity of these vital international projects. Past experience illustrates that it is ineffective to attempt to reverse waste, fraud, and abuse in large scale foreign infrastructure projects, once the abuse has already begun. Therefore, it is vital to detect the abuses before they occur.

The Fair Competition in Foreign Commerce Act of 1998 requires the United States Government, through its participation in the multilateral lending institutions and in its disbursement of non-humanitarian foreign assistance funds, to: (1) require the recipient international financial institution to adopt an anti-corruption plan that requires the aid recipient to use independent third-party procurement monitoring services, at each stage of the procurement process, to ensure openness and transparency in government procurements, and (2) to require the recipient nation to institute specific strategies for minimizing corruption and maximizing transparency in procurements at each stage of the procurement process.

If these criteria are not met, the legislation directs the Secretary of the Treasury to instruct the United States Executive Directors of the various International Development Banks to use the voice and vote of the United States to oppose the lending institution from providing the funds to the nations requesting economic aid which do not satisfy the procurement reforms criteria. This Act has two important exceptions. First, it does not apply to assistance to meet urgent humanitarian needs such as providing food, medicine, disaster, and refugee relief. Second, it also permits the President to waive the funding restrictions with respect to a particular country if making such funds available is important to the national security interest of the United States.

Independent third-party procurement monitoring is a system where an independent third-party conducts a program to eliminate bias, to promote transparency and open competition, and to minimize fraud and corruption, waste and inefficiency and other misuse of funds in international procurements. The system does this through an independent evaluation of the technical, financial, economic and legal aspects of each stage of a procurement, from the development and issuance of technical specifications, bidding documents, evaluation reports and contract preparation, to the delivery of goods and services. This monitoring will take place throughout the entire term of the international development project.

Mr. President, this system has worked for other governments. Procurement reforms and third-party procurement monitoring resulted in the governments of Kenya, Uganda, Colombia, and Guatemala experiencing significant cost savings in recent procurements. For instance, the Government of Guatemala experienced an overall savings of 48% when it adopted a third-party procurement monitoring system, and other procurement reform measures, in a recent procurement of pharmaceuticals.

Independent third-party procurement monitoring is effective because it monitors each stage of the procurement process during and prior to each stage's completion, as opposed to following completion of a particular stage of the procurement process. Independent third-party procurement monitoring also improves transparency and openness in the procurement process. Increased transparency helps to minimize fraud and corruption, waste and inefficiency, and other misuse of funding, and promotes competition, thereby strengthening international trade and foreign commerce.

Mr. President, bribery and corruption have many victims. Bribery and corruption hamper vital U.S. interests. Both harm consumers, taxpayers, and honest traders who lose contracts, production, and profits because they refuse to offer bribes to secure foreign contracts. Bribery and corruption have become a serious problem. A World Bank survey of 3,600 firms in 69 countries showed 40% of businesses paying bribes. More startling is that Germany still permits its companies to take a tax deduction for bribes. A recent comment by Commerce Secretary Daley sums up the serious impact of bribery and corruption upon American businesses ability to compete for foreign contracts:

> Since mid-1994, foreign firms have used bribery to win approximately 180 commercial contracts valued at nearly $80 billion. We estimate that over the past year, American companies have lost at least 50 of these contracts, valued at $15 billion. And since many of these contracts were for groundbreaking projects—the kind that produces exports for years to come—the ultimate cost could be much higher.''

Exports will continue to play an increasing role in our continued economic expansion. We can ill afford to allow any artificial impediments to our ability to export. Bribery and corruption, significantly hinder American businesses' ability to compete for lucrative overseas government contracts. American businesses are simply not competitive when bidding against foreign firms that have bribed government officials to secure overseas government contracts. Greater openness and fairness in government procurement will greatly enhance opportunities to compete in the rapidly expanding global economy. Exports equate to jobs. Jobs equate to more money in hard-working Americans' pockets. More money in Americans' pockets means more money for Americans to save and invest in their futures.

Bribery and corruption also harm the country receiving the aid because bribery and corruption often inflate the cost of international development projects. For example, state sponsorship of massive infrastructure projects that are deliberately beyond the required specification needed to meet the objective is a common example of waste, fraud, and abuse inherent in corrupt procurement practices. Here, the cost of corruption is not the amount of the bribe itself, but the inefficient use of resources the bribes encourage.

Bribery and corruption have short and long term negative effects upon the nation receiving aid. The short term effect is that bribery and corruption drive up the cost of the infrastructure project. Companies are forced to increase prices to cover the cost of bribes they are forced to pay. A 2% bribe on a contract is said to raise costs by 15%. The aggregate or long term effect of this type of corruption is that, over time, tax revenues will have to be raised or diverted from other more deserving projects to fund the excesses in these projects. Higher taxes and the inefficient use of resources both hinder growth.

The World Bank and the IMF both recognize the link between bribery and corruption, and decreased economic growth. Recent studies also indicate that high levels of corruption are associated with low levels of investment and growth. These studies illustrate that corruption discourages direct investment, which results in decreased economic growth. Furthermore, corruption lessens the effectiveness of industrial policies and encourages businesses to operate in the unofficial sector in violation of tax and regulatory laws. Most important, corruption begins a cycle where corruption breeds more corruption and discourages legitimate investment. In short, bribery and corruption create ''lose lose'' situation for the U.S. and developing nations.

The U.S. recognizes the damaging effects bribery and corruption have at home and abroad. The U.S. continues to combat foreign corruption, waste, and abuse on many fronts: from prohibiting U.S. firms from bribing foreign officials, to leading the anti-corruption efforts in the United Nations, the Organization of American States, and the Organization for Economic Cooperation and Development (''OECD''). The U.S. was the first country to enact legislation (the Foreign Corrupt Practices Act) to prohibit its nationals and corporations from bribing foreign public officials in international and business transactions.

However, we must do more. Our current efforts must expand. The FCPA prevents U.S. nationals and corporations from bribing foreign officials. It does nothing to prevent foreign nationals and corporations from bribing foreign officials to obtain foreign contracts. Valuable taxpayer resources are often diverted or squandered because of corrupt officials or the use of non-transparent specifications, contract requirements and the like in international procurements for goods and services. Such corrupt practices also minimize competition and prevent the recipient nation or agency from receiving the full value of the goods and services for which it bargained. In addition, despite the importance of international markets to U.S. goods and services providers, many U.S. companies refuse to participate in international procurements that may be corrupt.

This legislation is designed to provide a mechanism to ensure, to the extent possible, the integrity of the U.S. contribution to the multilateral lending institutions and other non-humanitarian U.S. foreign aid. Corrupt international procurements, often funded by these multilateral banks, weaken democratic institutions and undermine the very opportunities that multilateral lending institutions were founded to promote. This bill will encourage and support the development of transparent government procurement capacity, which is vital for emerging democracies constructing a government procurement infrastructure that can sustain market economies in the developing world.

Mr. President, I am committed to combating the waste, fraud and abuse resulting from bribery and corruption in international development projects. Procurement reforms and independent procurement monitoring are key to policing complicated international procurements, which are often plagued by corruption, inefficiency and other problems. These problems thwart the economic development purpose of multilateral assistance and make it more difficult for U.S. companies to compete for valuable large-scale international development projects.

Mr. President, on behalf of the millions of Americans who will benefit from increased opportunities for U.S. businesses to participate in the global economy, and the billions of people in developing nations throughout the world who are desperate for economic assistance, I urge my colleagues to support this legislation and demonstrate their continued commitment to the orderly evolution of the global economy and the efficient use of American economic assistance.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2618

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fair Competition in Foreign Commerce Act''.

SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) The United States makes substantial contributions and provides significant funding for major international development projects through the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the African Development Fund, and other multilateral lending institutions.

(2) These international development projects are often plagued with fraud, corruption, waste, inefficiency, and misuse of funding.

(3) Fraud, corruption, waste, inefficiency, misuse, and abuse are major impediments to competition in foreign commerce throughout the world.

(4) Identifying these impediments after they occur is inadequate and meaningless.

(5) Detection of impediments before they occur helps to ensure that valuable United States resources contributed to important international development projects are used appropriately.

(6) Independent third-party procurement monitoring is an important tool for detecting and preventing such impediments.

(7) Third-party procurement monitoring includes evaluations of each stage of the procurement process and assures the openness and transparency of the process.

(8) Improving transparency and openness in the procurement process helps to minimize fraud, corruption, waste, inefficiency, and other misuse of funding, and promotes competition, thereby strengthening international trade and foreign commerce.

(b) PURPOSE.—The purpose of this Act is to build on the excellent progress associated with the Organization on Economic Development and Cooperation Agreement on Bribery and Corruption, by requiring the use of independent third-party procurement monitoring as part of the United States participation in multilateral development banks and other lending institutions and in the disbursement of nonhumanitarian foreign assistance funds.

SEC. 3. DEFINITIONS.

(a) DEFINITIONS.—In this Act:

(1) APPROPRIATE COMMITTEES.—The term ''appropriate committees'' means the Committee on Commerce, Science, and Technology of the Senate and the Committee on Commerce of the House of Representatives.

(2) INDEPENDENT THIRD-PARTY PROCUREMENT MONITORING.—The term ''independent third-party procurement monitoring'' means a program to—

(A) eliminate bias,

(B) promote transparency and open competition, and

(C) minimize fraud, corruption, waste, inefficiency, and other misuse of funds, in international procurement through independent evaluation of the technical, financial, economic, and legal aspects of the procurement process.

(3) INDEPENDENT.—The term ''independent'' means that the person monitoring the procurement process does not render any paid services to private industry and is neither owned or controlled by any government or government agency.

(4) EACH STAGE OF PROCUREMENT.—The term ''each stage of procurement'' means the development and issuance of technical specifications, bidding documents, evaluation reports, contract preparation, and the delivery of goods and services.

(5) MULTILATERAL DEVELOPMENT BANKS AND OTHER LENDING INSTITUTIONS.—The term ''multilateral development banks and other lending institutions'' means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, and the African Development Fund.

SEC. 4. REQUIREMENTS FOR FAIR COMPETITION IN FOREIGN COMMERCE.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury shall transmit to the President and to appropriate committees of Congress a strategic plan for requiring the use of independent third-party procurement monitoring and other international procurement reforms relating to the United States participation in multilateral development banks and other lending institutions.

(b) STRATEGIC PLAN.—The strategic plan shall include an instruction by the Secretary of the Treasury to the United States Executive Director of each multilateral development bank and lending institution to use the voice and vote of the United States to oppose the use of funds appropriated or made available by the United States for any non-humanitarian assistance, until—

(1) the recipient international financial institution has adopted an anticorruption plan that requires the use of independent third-party procurement monitoring services and ensures openness and transparency in government procurement; and

(2) the recipient country institutes specific strategies for minimizing corruption and maximizing transparency in each stage of the procurement process.

(c) ANNUAL REPORTS.—Not later than June 29th of each year, the Secretary of the Treasury shall report to Congress on the progress in implementing procurement reforms made by each multilateral development bank and lending institution and each country that received assistance from a multilateral development bank or lending institution during the preceding year.

(d) RESTRICTIONS ON ASSISTANCE.—Notwithstanding any other provision of law, no funds appropriated or made available for non-humanitarian foreign assistance programs, including the activities of the Agency for International Development, may be expended for those programs unless the recipient country, multilateral development bank or lending institution has demonstrated that—

(1) procurement practices are open, transparent, and free of corruption, fraud, inefficiency, and other misuse, and

(2) independent third-party procurement monitoring has been adopted and is being used by the recipient.

SEC. 5. EXCEPTIONS.

(a) NATIONAL SECURITY INTEREST.—Section 4 shall not apply with respect to a country if the President determines with such respect to such country that making funds available is important to the national security interest of the United States. Any such determination shall cease to be effective 6 months after being made unless the President determines that its continuation is important to the national security interest of the United States.

(b) OTHER EXCEPTIONS.—Section 4 shall not apply with respect to assistance to—

(1) meet urgent humanitarian needs (including providing food, medicine, disaster, and refugee relief);

(2) facilitate democratic political reform and rule of law activities;

(3) create private sector and nongovernmental organizations that are independent of government control; and

(4) facilitate development of a free market economic system.●

By Mr. DASCHLE:

S. 2619. A bill to amend title 38, United States Code, to improve access of veterans to emergency medical care in non-Department of Veterans Affairs medical facilities; to the Committee on Veterans' Affairs.

THE VETERANS' ACCESS TO EMERGENCY HEALTH CARE ACT OF 1998

Mr. DASCHLE. Mr. President, as we near the end of the 105th Congress, I would again like to voice my frustration about the fact that the United States Senate failed to consider and pass important legislation this year that could have greatly benefited the American people. Unfortunately, the highway leading to adjournment is littered with legislation that should have been considered, passed and enacted long ago, including efforts to prevent teen smoking, modernize our public schools, and increase the minimum wage.

I am particularly disappointed that my colleagues on the other side of the aisle prevented the United States Senate from considering managed care reform legislation. Yesterday, Senate Republicans even prevented us from proceeding to their own HMO reform bill. Time and again, the American people have said they want a comprehensive, enforceable Patients' Bill of Rights. Toward that goal, several of my Democratic colleagues and I introduced the Patients' Bill of Rights Act of 1998. That legislation addressed a growing concern among the American people about the quality of care delivered by health maintenance organizations. Despite enormous public support for HMO reform, Democratic efforts to consider the Patients' Bill of Rights were stymied at every turn.

For months, it has been my intention to offer an amendment to the HMO reform legislation regarding a serious deficiency in veterans' access to emergency health care. I was prepared to do so yesterday. Since the Senate was again precluded from debating managed care reform, however, I would like to call attention to this matter before the 105th Congress adjourns by introducing the Veterans' Access to Emergency Health Care Act of 1998 as a separate bill. I hope my colleagues will support this legislation when I introduce it again in the 106th Congress, when I am confident the United States Senate will finally have the opportunity to consider meaningful HMO reform legislation.

The problem addressed in this bill stems from the fact that veterans who rely on the Department of Veterans Affairs (VA) for health care often do not receive reimbursement for emergency medical care they receive at non-VA facilities. According to the VA, veterans may only be reimbursed by the VA for emergency care at a non-VA facility that was not pre-authorized if all of the following criteria are met:

First, care must have been rendered for a medical emergency of such nature that any delay would have been life-threatening; second, the VA or other federal facilities must not have been feasibly available; and, third, the treatment must have been rendered for a service-connected disability, a condition associated with a service-connected disability, or for any disability of a veteran who has a 100-percent service-connected disability.

Many veterans who receive emergency health care at non-VA facilities are able to meet the first two criteria. Unless they are 100-percent disabled, however, they generally fail to meet the third criterion because they have suffered heart attacks or other medical emergencies that were unrelated to their service-connected disabilities. Considering the enormous costs associated with emergency health care, current law has been financially and emotionally devastating to countless veterans with limited income and no other health insurance. The bottom line is that veterans are forced to pay for emergency care out of their own pockets until they can be stabilized and transferred to VA facilities.

During medical emergencies, veterans often do not have a say about whether they should be taken to a VA or non-VA medical center. Even when they specifically ask to be taken to a VA facility, emergency medical personnel often transport them to a nearby hospital instead because it is the closest facility. In many emergencies, that is the only sound medical decision to make. It is simply unfair to penalize veterans for receiving emergency medical care at non-VA facilities. Veterans were asked to make enormous sacrifices for this county, and we should not turn our backs on them during their time of need.

There should be no misunderstanding. This is a widespread problem that affects countless veterans in South Dakota and throughout the country. I would like to cite just three examples of veterans being denied reimbursement for emergency care at non-VA facilities in western South Dakota.

The first involves Edward Sanders, who is a World War II veteran from Custer, South Dakota. On March 6, 1994, Edward was taken to the hospital in Custer because he was suffering chest pains. He was monitored for several hours before a doctor at the hospital called the VA Medical Center in Hot Springs and indicated that Edward was in need of emergency services. Although Edward asked repeatedly to be taken to a VA facility, he was transported by ambulance to Rapid City Regional Hospital, where he underwent a cardiac catheterization and coronary artery bypass grafting. Because the emergency did not meet the criteria I mentioned previously, the VA did not reimburse Edward for the care he received at Rapid City Regional. His medical bills totaled more than $50,000.

On May 17, 1997, John Lind suffered a heart attack while he was at work. John is a Vietnam veteran exposed to Agent Orange who served his country for 14 years until he was discharged in 1981. John lives in Rapid City, South Dakota, and he points out that he would have asked to be taken to the VA Medical Center in Fort Meade for care, but he was semi-unconscious, and emergency medical personnel transported him to Rapid City Regional. After 4 days in the non-VA facility, John incurred nearly $20,000 in medical bills. Although he filed a claim with the VA for reimbursement, he was turned down because the emergency was not related to his service-connected disability.

Just over one month later, Delmer Paulson, a veteran from Quinn, South Dakota, suffered a heart attack on June 26, 1997. Since he had no other health care insurance, he asked to be taken to the VA Medical Center in Fort Meade. Again, despite his request, the emergency medical personnel transported him to Rapid City Regional. Even though Delmer was there for just over a day before being transferred to Fort Meade, he was charged with almost a $20,000 medical bill. Again, the VA refused to reimburse Delmer for the unauthorized medical care because the emergency did not meet VA criteria.

The Veterans' Access to Emergency Health Care Act of 1998, which I am introducing today, would address this serious problem. It would authorize the VA to reimburse veterans enrolled in the VA health care system for the cost of emergency care or services received in non-VA facilities when there is ''a serious threat to the life or health of a veteran.'' Rep. LANE EVANS has introduced identical legislation in House of Representatives.

Although I am extremely disappointed that the United States Senate did not debate meaningful managed care reform legislation this year, I am hopeful the American people will continue to urge their elected representatives to pass a comprehensive, enforceable Patients' Bill of Rights early next year. I am equally hopeful that any meaningful HMO reform legislation will address this serious deficiency in veterans' access to emergency health care. I look forward to continuing to work with my colleagues on both sides of the aisle to ensure that veterans receive the health care they deserve.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2619

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans' Access to Emergency Care Act of 1998''.

SEC. 2. DEPARTMENT OF VETERANS AFFAIRS ENROLLMENT SYSTEM DECLARED TO BE A HEALTH CARE PLAN.

Section 1705 of title 38, United States Code, is amended by adding at the end the following new subsection:

''(d) The enrollment system under subsection (a) is a health care plan, and the veterans enrolled in that system are enrollees and participants in a health care plan.''.

SEC. 3. EMERGENCY HEALTH CARE IN NON-DEPARTMENT OF VETERANS AFFAIRS FACILITIES FOR ENROLLED VETERANS.

(a) CONTRACT CARE.—Section 1703(a)(3) of title 38, United States Code, is amended by inserting ''who is enrolled under section 1705 of this title or who is'' after ''health of a veteran''.

(b) DEFINITION OF MEDICAL SERVICES.—Section 1701(6) of such title is amended—

(1) by striking out ''and'' at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ''; and''; and

(3) by inserting after subparagraph (B) the following new subparagraph:

''(C) emergency care, or reimbursement for such care, as described in sections 1703(a)(3) and 1728(a)(2)(E) of this title.''.

(c) REIMBURSEMENT OF EXPENSES FOR EMERGENCY CARE.—Section 1728(a)(2) of such title is amended—

(1) by striking out ''or'' before ''(D)''; and

(2) by inserting before the semicolon at the end the following: '', or (E) for any medical emergency which poses a serious threat to the life or health of a veteran enrolled under section 1705 of this title''.

(d) PAYMENT PRIORITY.—Section 1705 of such title, as amended by section 2, is further amended by adding at the end the following new subsection:

''(e) The Secretary shall require in a contract under section 1703(a)(3) of this title, and as a condition of payment under section 1728(a)(2) of this title, that payment by the Secretary for treatment under such contract, or under such section, of a veteran enrolled under this section shall be made only after any payment that may be made with respect to such treatment under part A or part B of the Medicare program and after any payment that may be made with respect to such treatment by a third-party insurance provider.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to care or services provided on or after the date of the enactment of this Act.

By Mr. ROBB:

S. 2620. A bill to amend the Federal Water Pollution Control Act to establish a National Clean Water Trust Fund and to authorize the Administrator of the Environmental Protection Agency to use amounts in the Fund to carry out projects to promote the recovery of waters of the United States from damage resulting from violations of that act, and for other purposes; to the Committee on Environment and Public Works.

NATIONAL CLEAN WATER TRUST FUND ACT OF 1998

• Mr. ROBB. Mr. President, today I introduce a bill that will help clean up and restore our nation's waters. This bill, the National Clean Water Trust Fund Act of 1998, creates a trust fund from fines, penalties and other monies collected through enforcement of the Clean Water Act. The money deposited into the National Clean Water Trust Fund would be used to address the pollution problems that initiated those enforcement actions.

Last year, a highly publicized case in Virginia illustrated the need for this legislation. On August 8, 1997, U.S. District Court Judge Rebecca Smith issued a $12.6 million judgement, the largest fine ever levied for violations of the Clean Water Act, against Smithfield Foods, Isle of Wright County, Virginia, for polluting the James River. The Judge wrote in her opinion that the civil penalty imposed on Smithfield should be directed toward the restoration of the Pagan and James Rivers, tributaries of the Chesapeake Bay. Unfortunately, due to current federal budget laws, the court had no discretion over the damages, and the fine was deposited into the Treasury's general fund, defeating the very spirit of the Clean Water Act.

Today, there is no guarantee that fines or other money levied against parties who violate provisions in the Clean Water Act will be used to correct water problems. Instead, some, if not all, of the money is directed into the general fund of the U.S. Treasury with no provision that it be used to improve the quality of our water. While the Environmental Protection Agency's enforcement activities are extracting large sums of money from industry and others through enforcement of the Clean Water Act, we ignore the fundamental issue of how to pay for clean up and restoration of pollution problems for which the penalties were levied. To ensure the successful implementation of the Clean Water Act, we should put these enforcement funds to work and actually clean up our nation's waters.

This legislation will establish a National Clean Water Trust Fund within the U.S. Treasury to earmark fines, penalties, and other funds, including consent decrees, obtained through enforcement of the Clean Water Act that would otherwise be placed into the Treasury's general fund. Within the provisions of the bill, the EPA Administrator would be authorized, with direct consultation from the states, to prioritize and carry out projects to restore and recover waters of the United States using the funds collected from violations of the Clean Water Act. This legislation, however, would not preempt citizen suits or in any way preclude EPA's authority to undertake and complete supplemental environmental projects as part of settlements related to violations of the Clean Water Act and/or other legislation. The bill also provides court discretion over civil penalties from Clean Water Act violations to be used to carry out mitigation and restoration projects. With this legislation, we can avoid another predicament like the one faced in Virginia.

Mr. President, it only makes sense that fines occurring from violations of the Clean Water Act be used to clean up and restore the waters that were damaged. This bill provides a real opportunity to improve the quality of our nation's waters.

I recognize that no action can be taken on this legislation this session. I introduce it today in order to give my colleagues, the Administration and others an opportunity to examine the ideas contained in the legislation. I will introduce this legislation early in the next Congress and hope we can include it in the reauthorization of the Clean Water Act when it is taken up next year.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 2620

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Clean Water Trust Fund Act of 1998".

SEC. 2. NATIONAL CLEAN WATER TRUST FUND.

Section 309 of the Federal Water Pollution Control Act (33 U.S.C. 1319) is amended by adding at the end the following:

"(h) NATIONAL CLEAN WATER TRUST FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury a National Clean Water Trust Fund (referred to in this subsection as the 'Fund') consisting of amounts transferred to the Fund under paragraph (2) and amounts credited to the Fund under paragraph (3).

"(2) TRANSFER OF AMOUNTS.—For fiscal year 1998, and each fiscal year thereafter, the Secretary of the Treasury shall transfer to the Fund an amount determined by the Secretary to be equal to the total amount deposited in the general fund of the Treasury in the preceding fiscal year from fines, penalties, and other funds obtained through enforcement actions conducted pursuant to this section and section 505(a)(1), including any amounts obtained under consent decrees and excluding any amounts ordered to be used to carry out mitigation projects under this section or section 505(a).

"(3) INVESTMENT OF AMOUNTS.—

"(A) IN GENERAL.—The Secretary of the Treasury shall invest in interest-bearing obligations of the United States such portion of the Fund as is not, in the Secretary's judgment, required to meet current withdrawals.

"(B) ADMINISTRATION.—The obligations shall be acquired and sold and interest on, and the proceeds from the sale or redemption of, the obligations shall be credited to the Fund in accordance with section 9602 of the Internal Revenue Code of 1986.

"(4) USE OF AMOUNTS FOR REMEDIAL PROJECTS.—Amounts in the Fund shall be available, as provided in appropriations Acts, to the Administrator to carry out projects to restore and recover waters of the United States from damage resulting from violations of this Act that are subject to enforcement actions under this section and similar damage resulting from the discharge of pollutants into the waters of the United States.

"(5) SELECTION OF PROJECTS.—

"(A) PRIORITY.—In selecting projects to carry out under this subsection, the Administrator shall give priority to a project to promote the recovery of waters of the United States from damage described in paragraph (4), if an enforcement action conducted pursuant to this section or section 505(a)(1) with respect to the violation, or another violation of this Act in the same administrative region of the Environmental Protection Agency as the violation, resulted in amounts being deposited in the general fund of the Treasury.

"(B) CONSULTATION WITH STATES.—In selecting projects to carry out under this section, the Administrator shall consult with States in which the Administrator is considering carrying out a project.

"(C) ALLOCATION OF AMOUNTS.—In determining an amount to allocate to carry out a project to restore and recover waters of the United States from damage described in paragraph (4), the Administrator shall, in the case of a priority project described in subparagraph (A), take into account the total amount deposited in the general fund of the Treasury as a result of enforcement actions conducted with respect to the violation pursuant to this section or section 505(a)(1).

"(6) IMPLEMENTATION.—The Administrator may carry out a project under this subsection directly or by making grants to, or entering into contracts with, another Federal agency, a State agency, a political subdivision of a State, or any other public or private entity.

"(7) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this subsection, and every 2 years thereafter, the Administrator shall submit to Congress a report on implementation of this subsection.".

SEC. 3. USE OF CIVIL PENALTIES FOR MITIGATION PROJECTS.

(a) IN GENERAL.—Section 309(d) of the Federal Water Pollution Control Act (33 U.S.C. 1319(d)) is amended by inserting after the second sentence the following: "The court may order that a civil penalty be used for carrying out mitigation, restoration, or other projects that are consistent with the purposes of this Act and that enhance public health or the environment.".

(b) CONFORMING AMENDMENT.—Section 505(a) of the Federal Water Pollution Control Act (33 U.S.C. 1365(a)) is amended in the last sentence by inserting before the period at the end of the following: ", including ordering the use of a civil penalty for carrying out mitigation, restoration, or other projects in accordance with section 309(d)".•

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2621. A bill to authorize the acquisition of the Valles Caldera currently managed by the Baca Land and Cattle Company, to provide for an effective land and wildlife management program for this resource within the Department of Agriculture through the private sector, and for purposes; to the Committee on Energy and Natural Resources.

THE VALLES CALDERA PRESERVATION ACT

Mr. DOMENICI. Mr. President, the Valles Caldera in Northern New Mexico is a place you visit for a day, and long to return to for a life time. It is nature at its most extraordinary—an almost perfectly round bowl formed by a collapsed volcano. It is a place with rolling meadows, crystal-clear streams, roaming elk, Ponderosa pines and quaking Aspen trees, and Golden eagles. This legislation guarantees that this very special place will be there for future generations to visit and remember.

I am very proud to be introducing legislation that will authorize the Secretary of the Interior to acquire a truly unique 95,000 acre ''working ranch'' in New Mexico, known alternatively as the Baca Ranch, the Valle Grande, and the Valles Caldera. Independently, but as importantly, this legislation also addresses longstanding problems encountered by Federal land managers in disposing of surplus federal property and the acquisition of private inholdings within federal management areas.

The former provides a unique solution to the management of a unique property, while the latter builds on existing laws and provides resources dedicated to the consolidation of federal agency land holdings.

In north-central New Mexico there is a truly unique working ranch on an historic Mexican land grant known as Baca Location No. 1. The Ranch is currently owned and managed by the Baca Land and Cattle Company, and it comprises most of a collapsed, extinct volcano known as the Valles Caldera. This ranch also contains innumerable significant cultural, historic, recreational, ecological, and productive resources.

The bill I introduce today is the result of months of negotiation with the Administration, Senator BINGAMAN, and Congressman REDMOND. We have incorporated ideas from groups interested in the acquisition of the truly unique Baca Ranch. Many Americans, especially New Mexicans have expressed a desire for the federal government to purchase the Ranch. After months of research and consideration, I met with President Clinton on Air Force One while we were both returning to Washington from New Mexico to discuss the possibility of this land acquisition. Because the nature of the property requires a unique operational program for appropriate development and preservation, I approached him with an innovative trust structure for the management of the Baca Ranch. This trust would manage the ranch with appropriate public input and governmental oversight. I indicated that I was not interested in having the ranch managed under current federal agency practices. The President expressed enthusiasm for making this concept a reality, and we agreed on a Statement of Principles to govern the acquisition of the Baca Ranch at the end of July.

This unique working ranch has been well maintained and preserved by the current owners. In fact, if ever there was an example of sterling stewardship of a piece of property, this is it.

The legislation introduced today certainly cannot pass this year: unfortunately, time has run out for the 105th Congress, but many concerns and ideas about federal purchase of the property will be discussed at hearings upon reintroduction in the 106th Congress. While there is consenus that this property should be acquired, we do not yet know the cost of the property. The Baca Ranch is estimated to be worth approximately $100 to $125 million, but the appraisal has not yet been given to the Forest Service or made public. Therefore, the exact cost of acquisition has yet to be determined.

This is the largest purchase of public land by the Forest Service in at least 25 years, therefore, it is imperative that careful consideration is given to not only the purchase, but to the management of the property as well.

In past years, federal land management agencies have been criticized for their stewardship of public lands. I find it ironic that many of the groups who wish to bring this ranch into government ownership are the same groups who, in recent years, have initiated relentless litigation against the Forest Service and BLM alleging poor management of federal lands. However, diverse interests have come together to reach agreement on the trust management of the Ranch, and Congressman REDMOND and I have worked hard in both Houses of Congress to obtain funding for purchase. Any funding at this point should be viewed as earnest money, and will be subject to this authorization and agreement on the fair market value for the property.

The parties have really worked hard in framing this legislation, and there are still a few issues we would like to work out. Not the least of which includes the interest expressed by the Santa Clara Pueblo in purchasing land outside the Caldera, but contains the headwaters of the Santa Clara Creek. Negotiations between the Pueblo, the Administration, the current owners of the property, and the congressional delegation on how to resolve this issue was not completed prior to today's introduction. However, all parties are interested in continuing discussion regarding a potential Santa Clara purchase of property adjacent to their pueblo. I also note that Congressman REDMOND has expressed specific interest in addressing other Native American issues regarding the Ranch acquisition.

I have visited the Baca Ranch, and I can tell you that it is one beautiful piece of property. The Valles Caldera is one of the world's largest resurgent lava domes with potential geothermal activity. The depression from a hugh volcanic eruption over a million years ago is more than a half-mile deep and fifteen miles across at its widest point. The land was originally granted to the heirs of Don Luis Maria Cabeza de Vaca under a settlement enacted by Congress in 1860. Since that time, the property has remained virtually intact as a single, large, tract of land.

Historical evidence in the form of old logging camps and other artifacts, and a review of the history of territorial New Mexico clearly show the importance of this land over many generations for the rearing of domesticated livestock, and as a timber supply for local inhabitants. Several film sets have been left standing on the property, representing a significant part of the history of the American film industry and its depiction of the American West.

The careful husbandry of the Ranch by the Dunigan family, the current owners, including selective harvesting of timber, limited grazing and hunting, and the use of proscribed fire, have preserved a mix of healthy range and timber land with significant species diversity providing a model for sustainable land development and use. The Ranch's natural beauty and abundant resources, and its proximity to large municipal populations could provide numerous recreational opportunities for hiking, fishing, camping, cross-country skiing, and hunting.

Mr. President, the Baca Location is a unique working ranch. It is not a wilderness area, as in the words of the Wilderness Act, ''untrammeled by man, where man is a visitor who does not remain.'' Man has been there for many generations, and will remain for many to come. Similarly, it is not a resource that could be run well as a national park. This ranch can best be protected for future generations by continuing its operation as a working asset through a unique management structure. This legislation provides unique management under a trust that may allow for its eventual operation to become financially self-sustaining.

Mr. President, recent indication by the current owners of the Baca Location that they wish to sell the ranch has created an opportunity for us to acquire it into public ownership and allow for appropriate public access and enjoyment of these lands for the first time since 1860. Because of the ranch's unique character, however, I am not interested in having it managed under the usual federal authorities, as is typical of the Forest Service, Bureau of Land Management, or the National Park Service. Under the current state of affairs on our public lands, Forest Service and BLM management is constantly hounded by litigation initiated by some of the same groups that wish to bring this ranch into government ownership. I do not want to take this property, put it in that situation, and then claim we have done a great thing.

This legislation represents an opportunity to experiment with a different kind of public land management scheme. Burdensome regulations, and litigation resulting therefrom, have brought federal land management practices rapidly towards gridlock. The Valles Caldera National Preserve will serve as a model to explore alternative means of federal management and will provide the American people with opportunities to enjoy the Valles Caldera and its many resources for generations to come.

This trust idea, based on similar legislation for federal management of the Presidio in San Francisco, sets in motion a truly unique management scheme befitting this truly unique place. I am willing to take a chance on an innovative approach because I believe that the current quagmire of federal land management simply does not do justice to this very special place. The unique nature of the Valles Caldera, and its resources, requires a unique management program, dedicated to appropriate development and preservation under the principle of the highest and best use of the ranch in the interest of the public.

Mr. President, title I of this legislation provides the framework necessary to fulfil that objective. It authorizes the acquisition of the Baca ranch by the appropriate Federal agency. At the same time, it establishes a government-owned corporation, called the Valles Caldera Trust, whose sole responsibility is to ensure that the ranch is managed in a manner that will preserve its current unique character, and provide enumerable opportunities for the American people to enjoy its splendor. Most importantly to me, however, the legislation will allow for the ranch's continued operation as a working asset for the people of north-central New Mexico, without further drawing on the thinly-stretched resources of the Federal land management agencies.

I am looking forward to hearings on this legislation next year, and know that the legislative process shall enlighten us further as to the complex nature of the Ranch. I, personally, am greatly looking forward to seeing an value estimate of the land prior to authorization. While valued between $37 and $55 million in 1980, I have heard that the Baca ranch is currently estimated to be worth approximately $100 to $125 million. I do not know how such inflation will affect the likelihood of the location's federal acquisition. I do know that we have waited patiently for many months for a promised appraisal from the current owners, but an appraisal has not yet been complete nor have any other offers to purchase the land been made. Therefore, the exact cost of acquisition has yet to be determined. Before we commit large sums of federal taxpayer dollars to purchase new property, it seems prudent to provide a solution for the orderly disposal of surplus federal property and to meet our current obligations to those who hold lands within federal properties.

I would like to emphasize that while both portions of this bill are important to federal land management, both in New Mexico and nationwide, my intention is not to tie federal acquisition of the Baca upon disposition of surplus federal land. Instead, I feel this legislation independently addresses the acquisition of this unique property for public use and enjoyment, while solving current land management problems.

Currently, New Mexico has approximately one-third of its land in public ownership or management. I agree that these public lands are an important natural resource that require our most thoughtful management.

In order to conserve our existing National treasures for future use and enjoyment, we must devise, with the concurrence of other members of Congress and the President, a definite plan and timetable to dispose of surplus land through sale or exchange into private ownership.

Title II of this legislation addresses the orderly disposition of surplus federal property on a state by state basis. It also addresses the problem of what is known as ''inholdings'' within federally managed areas. There are currently more than 45 million acres of privately owned lands trapped within the boundaries of Federal land management units, including national parks, national forests, national monuments, national wildlife refuges, and wilderness areas. The location of these tracts, referred to as inholdings, makes the exercise of private property rights difficult for the land owner. In addition, management of the public lands is made more cumbersome for the federal land managers.

In many cases, inholders have been waiting generations for the federal government to set aside funding and prioritize the acquisition of their property. With rapidly growing public demand for the use of public lands, it is increasingly difficult for federal managers to address problems created by the existence of inholdings in many areas.

This legislation directs the Department of the Interior and the Department of Agriculture to survey inholdings existing within Federal land management units, and to establish a priority for their acquisition, on a willing seller basis, in the order of those which have existed as inholdings for the longest time to those most recently being incorporated into the Federal unit.

Closely related to the problem created by inholdings within Federal land management units, is the abundance of public domain land which the Bureau of Land Management (BLM) has determined it no longer needs to fulfil its mission. Under the Federal Land Policy and Management Act of 1976 (FLPMA), the BLM has identified an estimated four to six million acres of public domain lands for disposal, and the agency anticipates that additional public land will be similarly identified, with public input and consultation with State and local governments as required by law.

Mr. President, let me simply clarify that point—the BLM already has authority under an existing law, FLPMA, to exchange or sell lands out of Federal ownership. Through its public process for land use planning, when the agency has determined that certain lands would be more useful to the public under private or local governmental control, it is already authorized to dispose of these lands, either by sale or exchange.

The sale or exchange of this land which I have often referred to as ''surplus,'' would be beneficial to local communities, adjoining land owners, and BLM land mangers, alike. First, it would allow for the reconfiguration of land ownership patterns to better facilitate resource management. Second, it would contribute to administrative efficiency within federal land management units, by allowing for better allocation of fiscal and human resources within the agency. Finally, in certain locations, the sale of public land which has been identified for disposal is the best way for the public to realize a fair value for this land.

The problem, Mr. President, is that an orderly process for the efficient disposition of lands identified for disposal does not currently exist. This legislation addresses that problem by directing the BLM to fulfil all legal requirements for the transfer of these lands out of Federal ownership, and providing a dedicated source of funding generated from the sale of these lands to continue this process.

Additionally, this legislation authorizes the use of the proceeds generated from these lands to purchase inholdings from willing sellers. This will enhance the ability of the Federal land management agencies to work cooperatively with private land owners, and with State and local governments, to consolidate the ownership of public and private land in a manner that would allow for better overall resource management.

Mr. President, I want to make it clear that this program will in no way detract from other programs with similar purposes. The bill clearly states that proceeds generated from the disposal of public land, and dedicated to the acquisition of inholdings, will supplement, and not replace, funds appropriated for that purpose through the Land and Water Conservation Fund. In addition, the bill states that the Bureau of Land Management should rely on non-Federal entities to conduct appraisals and other research required for the sale or exchange of these lands, allowing for the least disruption of existing land and resource management programs.

Mr. President, this bill has been a long time in the making. For over a year, now, I have been working with and talking to knowledgeable people, both inside and outside of the current administration, to develop many of the ideas embodied in this bill. In recent weeks, my staff and I have worked closely with the administration on this legislation. I feel comfortable in stating that by working together, we have reached agreement in principle on the best way to proceed with these very important issues involving the management of public land resources, namely; the acquisition and unique management plan for the Baca ranch in New Mexico, and just as importantly, the disposition of surplus public lands in combination with a program to address problems associated with inholdings within our Federal land management units.

Mr. President, I have committed to the administration to continue to work with them on three or four areas of this bill, where concerns remain. I have full confidence, however, that we can address these issues through the legislative process in the next Congress. For example, the need for additional roads, parking, visitor facilities, and water and mineral rights are also important issues that must be resolved. However, we are very luck to have the pleasure of a bipartisan, administration approved, legislative concept from which to work.

The Senate Energy and Natural Resources Committee will schedule hearings to address the many issues regarding Federal purchase of the Baca Ranch early in the 106th Congress. Hopefully, by that time, an appraisal will be available for review. Congress has tried to resolve the difficult challenges in acquiring this property before, and failed; cooperation among the parties may bring success this time around. I believe that in the end, we will be able to stand together and tell the American people that we truly have accomplished two great and innovative things with this legislation.

Mr. President, I ask unanimous consent that the text of the bill and Statement of Principles be printed in the RECORD.

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

S. 2621

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

TITLE I—VALLES CALDERA NATIONAL PRESERVE AND TRUST

SECTION 101. SHORT TITLE.

This title may be cited as the ''Valles Caldera Preservation Act''.

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Baca ranch, owned and managed by the Baca Land and Cattle Company, comprises most of the Valles Caldera in central New Mexico, and constitutes a unique land mass, with significant scientific, cultural, historic, recreational, ecological, wildlife, fisheries, and productive values;

(2) the Valles Caldera is a large resurgent lava dome with potential geothermal activity;

(3) the land comprising the Baca ranch was originally granted to the heirs of Don Luis Maria Cabeza de Vaca in 1860;

(4) historical evidence in the form of old logging camps, and other artifacts, and the history of territorial New Mexico indicate the importance of this land over many generations for domesticated livestock production and timber supply;

(5) the careful husbandry of the Baca ranch by the Dunigan family, the current owners, including selective timbering, limited grazing and hunting, and the use of prescribed fire, have preserved a mix of healthy range and timber land with significant species diversity, thereby serving as a model for sustainable land development and use;

(6) the Baca ranch's natural beauty and abundant resources, and its proximity to large municipal populations, could provide numerous recreational opportunities for hiking, fishing, camping, cross-country skiing, and hunting;

(7) the Forest Service documented the scenic and natural values of the Baca ranch in its 1993 study entitled ''Report on the Study of the Baca Location No. 1, Santa Fe National Forest, New Mexico,'' as directed by Public Law 101–556;

(8) the Baca ranch can be protected for current and future generations by continued operation as a working ranch under a unique management regime which would protect the land and resource values of the property and surrounding ecosystem while allowing and providing for the ranch to eventually become financially self-sustaining;

(9) the current owners have indicated that they wish to sell the Baca ranch, creating an opportunity for federal acquisition and public access and enjoyment of these lands;

(10) certain features on the Baca ranch have historical and religious significance to Native Americans which can be preserved and protected through federal acquisition of the property;

(11) the unique nature of the Valles Caldera and the potential uses of its resources with different resulting impacts warrants a management regime uniquely capable of developing an operational program for appropriate preservation and development of the land and resources of the Baca ranch in the interest of the public;

(12) an experimental management regime should be provided by the establishment of a Trust capable of using new methods of public land management that may prove to be cost-effective and environmentally sensitive; and

(13) the Secretary may promote more efficient management of the Valles Caldera and the watershed of the Santa Clara Creek through the assignment of purchase rights of such watershed to the Pueblo of Santa Clara.

(b) PURPOSES.—The purposes of this title are—

(1) to authorize Federal acquisition of the Baca ranch;

(2) to protect and preserve for future generations the scenic and natural values of the Baca ranch, associated rivers and ecosystems, and archaeological and cultural resources;

(3) to provide opportunities for public recreation;

(4) to establish a demonstration area for an experimental management regime adapted to this unique property which incorporates elements of public and private administration in order to promote long term financial sustainability consistent with the other purposes enumerated in this subsection; and

(5) to provide for sustained yield management of Baca ranch for timber production and domesticated livestock grazing insofar as is consistent with the other purposes stated herein.

SEC. 103. DEFINITIONS.

In this title:

(1) BACA RANCH.—The term ''Baca ranch'' means the lands and facilities described in section 104(a).

(2) BOARD OF TRUSTEES.—The terms ''Board of Trustees'' and ''Board'' mean the Board of Trustees as described in section 107.

(3) COMMITTEES OF CONGRESS.—The term ''Committees of Congress'' means the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives.

(4) FINANCIALLY SELF-SUSTAINING.—The term ''financially self-sustaining'' means management and operating expenditures equal to or less than proceeds derived from fees and other receipts for resource use and development and interest on invested funds. Management and operating expenditures shall include Trustee expenses, salaries and benefits of staff, administrative and operating expenses, improvements to and maintenance of lands and facilities of the Preserve, and other similar expenses. Funds appropriated to the Trust by Congress, either directly or through the Secretary, for the purposes of this title shall not be considered.

(5) PRESERVE.—The term ''Preserve'' means the Valles Caldera National Preserve established under section 105.

(6) SECRETARY.—Except where otherwise provided, the term ''Secretary'' means the Secretary of Agriculture.

(7) TRUST.—The term ''Trust'' means the Valles Caldera Trust established under section 106(a).

SEC. 104. ACQUISITION OF LANDS.

(a) ACQUISITION OF BACA RANCH.—

(1) IN GENERAL.—In accordance with the Act of June 15, 1926 (16 U.S.C. 471a), the Secretary is authorized to acquire all or part of the rights, title and interests in and to approximately 94,812 acres of the Baca ranch, comprising the lands, facilities, and structures referred to as the Baca Location No. 1, and generally depicted on a plat entitled ''Independent Resurvey of the Baca Location No. 1,'' made by L.A. Osterhoudt, W.V. Hall and Charles W. Devendorf, U.S. Cadastral Engineers, June 30, 1920—August 24, 1921, under special instructions for Group No. 107 dated February 12, 1920, in New Mexico.

(2) SOURCE OF FUNDS.—The acquisition pursuant to paragraph (1) may be made by purchase through appropriated or donated funds, by exchange, by contribution, or by donation of land. Funds appropriated to the Secretary and the Secretary of the Interior from the Land and Water Conservation Fund shall be available for this purpose.

(3) BASIS OF SALE.—The acquisition pursuant to paragraph (1) shall be based on appraisal done in conformity with the *Uniform Appraisal Standards for Federal Land Acquisitions* and—

(A) in the case of purchase, such purchase shall be on a willing seller basis for no more than the fair market value of the land or interests therein acquired; and

(B) in the case of exchange, such exchange shall be for lands, or interests therein, of equal value, in conformity with the existing exchange authorities of the Secretary.

(4) DEED.—The conveyance of the offered lands to the United States under this subsection shall be by general warranty or other deed acceptable to the Secretary and in conformity with applicable title standards of the Attorney General.

(b) ADDITION OF LAND TO BANDELIER NATIONAL MONUMENT.—

(1) IN GENERAL.—Upon acquisition of the Baca ranch pursuant to subsection (a), the Secretary of the Interior shall assume administrative jurisdiction over the approximately 845 acres of the land acquired within the Upper Alamo watershed as depicted on the Forest Service map entitled ''Proposed Boundary Expansion Map Bandelier National Monument'' dated October, 1998.

(2) MANAGEMENT.—Upon assumption of administrative jurisdiction pursuant to paragraph (1), the Secretary of the Interior shall manage the added land as a part of Bandelier National Monument, the boundaries of which

are hereby adjusted to encompass such addition. The Secretary of the Interior is authorized to utilize funds appropriated for the National Park Service to acquire on a willing seller basis, the Elk Meadows subdivision within such boundary adjustment.

(c) PLAT AND MAPS.—

(1) PLAT AND MAPS PREVAILS.—In case of any conflict between the plat referred to in subsection (a)(1) and the map referred to in subsection (b)(1) and the acreages provided in such subsections, the plat or map shall prevail.

(2) MINOR CORRECTIONS.—The Secretary and the Secretary of the Interior may make minor corrections in the boundaries of the Upper Alamo watershed as depicted on the map referred to in subsection (b)(1).

(3) BOUNDARY MODIFICATION.—Upon the conveyance of any lands to any entity other than the Secretary, the boundary of the Preserve shall be modified to exclude such lands.

(4) FINAL MAPS.—Within 180 days of the date of acquisition of the Baca ranch pursuant to subsection (a), the Secretary and the Secretary of the Interior shall prepare and submit to the Committees of Congress a final map to the Valles Caldera National Preserve and a final map of Bandelier National Monument, respectively.

(5) PUBLIC AVAILABILITY.—The plat and maps referred to in the subsection shall be kept and made available for public inspection in the offices of the Chief, Forest Service, and Director, National Park Service, in Washington, D.C., and Supervisor, Santa Fe National Forest, and Superintendent, Bandelier National Monument, in the State of New Mexico.

(d) WATERSHED MANAGEMENT STUDY.—The Secretary, acting through the Forest Service, in cooperation with the Secretary of the Interior, acting through the National Park Service, shall—

(1) develop a study of management alternatives which may—

(A) provide more coordinated land management within the area known as the Lower Alamo watershed;

(B) allow for improved management of elk and other wildlife populations ranging between the Santa Fe National Forest and the Bandelier National Monument; and

(C) include a proposed boundary adjustment between the Santa Fe National Forest and the Bandelier National Monument to facilitate the objectives under subparagraphs (A) and (B); and

(2) submit the study to the Committees of Congress within 120 days of the boundary adjustment pursuant to subsection (b)(2).

(e) OUTSTANDING MINERAL INTERESTS.—The acquisition of the Baca ranch by the Secretary shall be subject to all outstanding valid existing mineral interests. The Secretary is authorized and directed to negotiate with the owners of any fractional interest in the subsurface estate for the acquisition of such fractional interest on a willing seller basis for their appraised fair market value. Any such interests acquired within the boundaries of the Upper Alamo watershed, as referred to in subsection (b)(1), shall be administered by the Secretary of the Interior as part of Bandelier National Monument.

(f) BOUNDARIES OF THE BACA RANCH.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Baca ranch shall be treated as if they were National Forest boundaries existing as of January 1, 1965.

SEC. 105. THE VALLES CALDERA NATIONAL PRESERVE.

(a) ESTABLISHMENT.—Upon the date of acquisition of the Baca ranch pursuant to section 104(a) there is hereby established the Valles Caldera National Preserve as a unit of the National Forest System which shall include all Federal lands and interest in land acquired pursuant to subsection 104(a), except those lands and interests in land administered by the Secretary of the Interior pursuant to section 104(b)(1), and shall be managed in accordance with the purposes and requirements of this title.

(b) PURPOSES.—The purposes for which the Preserve is established are to protect and preserve the scenic, geologic, watershed, fish, wildlife, historic, cultural, and recreational values of the Preserve, and to provide for multiple use and sustained yield of renewable resources within the Preserve, consistent with this title.

(c) MANAGEMENT AUTHORITY.—Except for the powers of the Secretary enumerated in this title, the Preserve shall be managed by the Valles Caldera Trust established by section 106.

(d) ELIGIBILITY FOR PAYMENT IN LIEU OF TAXES.—Lands acquired by the United States pursuant to section 104(a) shall constitute entitlement lands for purposes of the Payment in Lieu of Taxes Act (31 U.S.C. 6901–6904).

(e) WITHDRAWALS.—

(1) IN GENERAL.—Upon acquisition of all interests in minerals within the boundaries of the Baca ranch pursuant to section 104(e), subject to valid existing rights, the lands comprising the Preserve shall be withdrawn from disposition under all laws pertaining to mineral leasing, including geothermal leasing.

(2) MATERIALS FOR ROADS AND FACILITIES.—Nothing in this title shall preclude the Secretary, prior to assumption of management authority by the Trust, and the Trust thereafter, from allowing the utilization of common varieties of mineral materials such as sand, stone and gravel as necessary for construction and maintenance of roads and facilities within the Preserve.

(f) FISH AND GAME.—Nothing in this title shall be construed as affecting the responsibilities of the State of New Mexico with respect to fish and wildlife, including the regulation of hunting, fishing and trapping within the Preserve, except that the Trust may, in consultation with the Secretary and the State of New Mexico, designate zones where, and establish periods when no hunting, fishing or trapping shall be permitted for reasons of public safety, administration, the protection of nongame species and their habitats, or public use and enjoyment.

SEC. 106. THE VALLES CALDERA TRUST.

(a) ESTABLISHMENT.—There is hereby established a wholly owned government corporation known as the Valles Caldera Trust which is empowered to conduct business in the State of New Mexico and elsewhere in the United States in furtherance of its corporate purposes.

(b) CORPORATE PURPOSES.—The purposes of the Trust are—

(1) to provide management and administrative services for the Preserve;

(2) to establish and implement management policies which will best achieve the purposes and requirements of this title;

(3) to receive and collect funds from private and public sources and to make dispositions in support of the management and administration of the Preserve; and

(4) to cooperate with Federal, State, and local governmental units, and with Indian tribes and Pueblos, to further the purposes for which the Preserve was established.

(c) NECESSARY POWERS.—The Trust shall have all necessary and proper powers for the exercise of the authorities vested in it.

(d) STAFF.—

(1) IN GENERAL.—The Trust is authorized to appoint and fix the compensation and duties of an executive director and such other officers and employees as it deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay them without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates. No employee of the Trust shall be paid at a rate in excess of that paid the Supervisor of the Santa Fe National Forest or the Superintendent of the Bandelier National Monument, whichever is greater.

(2) FEDERAL EMPLOYEES.—

(A) IN GENERAL.—Except as provided in this title, employees of the Trust shall be Federal employees as defined by title 5, United States Code, and shall be subject to all rights and obligations applicable thereto.

(B) USE OF FOREST SERVICE EMPLOYEES UPON ESTABLISHMENT OF THE TRUST.—For the two year period from the date of the establishment of the Trust, and upon the request of the Trust, the Secretary may provide, on a nonreimbursable basis, Forest Service personnel and technical expertise as necessary or desirable to assist in the implementation of this title. Thereafter, Forest Service employees may be provided to the Trust as provided in paragraph (C).

(C) USE OF OTHER FEDERAL EMPLOYEES.—At the request of the Trust, the employees of any Federal agency may be provided for implementation of this title. Such employees detailed to the Trust for more than 30 days shall be provided on a reimbursable basis.

(e) GOVERNMENT CORPORATION.—

(1) IN GENERAL.—The Trust shall be a Government Corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act). Financial statements of the Trust shall be audited annually in accordance with section 9105 of title 31 of the United States Code.

(2) REPORTS.—The Trust shall submit, but not later than January 15 of each year, to the Secretary and the Committees of Congress a comprehensive and detailed report of its operations, activities, and accomplishments for the prior year. The report shall also include a section that describes the Trust's goals for the current year.

(f) TAXES.—The Trust and all properties administered by the Trust shall be exempt from all taxes and special assessments of every kind by the State of New Mexico, and its political subdivisions including the Counties of Sandoval and Rio Arriba.

(g) DONATIONS.—The Trust may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations and other private or public entities for the purposes of carrying out its duties. The Secretary, prior to assumption of management authority by the Trust, and the Trust thereafter, may accept donations from such entities notwithstanding that such donors may conduct business with the Department of Agriculture or any other Department or agency of the United States.

(h) PROCEEDS.—

(1) IN GENERAL.—Notwithstanding section 1341 of title 31 of the United States Code, all monies received by the Trust shall be retained by the Trust, and such monies shall be available, without further appropriation, for the administration, preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to properties under its management jurisdiction.

(2) FUND.—There is hereby established in the Treasury of the United States a special interest bearing fund entitled "Valles Caldera Fund" which shall be available, without further appropriation, to the Trust

for any purpose consistent with the purposes of this title. At the option of the Trust, the Secretary of the Treasury shall invest excess monies of the Trust in such account, which shall bear interest at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturity.

(i) SUITS.—The Trust may sue and be sued in its own name to the same extent as the Federal Government. For purposes of such suits, the residence of the Trust shall be the State of New Mexico. The Trust shall be represented by the Attorney General in any litigation arising out of the activities of the Trust, except that the Trust may retain private attorneys to provide advice and counsel.

(j) BYLAWS.—The Trust shall adopt necessary bylaws to govern its activities.

(k) INSURANCE AND BOND.—The Trust shall require that all holders of leases from, or parties in contract with, the Trust that are authorized to occupy, use, or develop properties under the management jurisdiction of the Trust procure proper insurance against any loss in connection with such properties, or activities authorized in such lease or contract, as is reasonable and customary.

SEC. 107. BOARD OF TRUSTEES.

(a) IN GENERAL.—The Trust shall be governed by a 7 member Board of trustees consisting of the following:

(1) VOTING TRUSTEES.—The voting Trustees shall be—

(A) the Supervisor of the Santa Fe National Forest, United States Forest Service;

(B) the Superintendent of the Bandelier National Monument, National Park Service; and

(C) 7 individuals, appointed by the President, in consultation with the Congressional delegation from the State of New Mexico. The 7 individuals shall have specific expertise or represent an organization or government entity as follows—

(i) one trustee shall have expertise in all aspects of domesticated livestock management, production and marketing, including range management and livestock business management;

(ii) one trustee shall have expertise in the management of game and non-game wildlife and fish populations, including hunting, fishing and other recreational activities;

(iii) one trustee shall have expertise in the sustainable management of forest lands for commodity and non-commodity purposes;

(iv) one trustee shall be active in a non-profit conservation organization concerned with the activities of the Forest Service;

(v) one trustee shall have expertise in financial management, budgeting and programing;

(vi) one trustee shall have expertise in the cultural and natural history of the region; and

(vii) one trustee shall be active in State or local government in New Mexico, with expertise in the customs of the local area.

(2) QUALIFICATIONS.—Of the trustees appointed by the President—

(A) none shall be employees of the Federal Government; and

(B) at least five shall be residents of the State of New Mexico.

(b) INITIAL APPOINTMENTS.—The President shall make the initial appointments to the Board of Trustees within 90 days after acquisition of the Baca ranch pursuant to section 104(a).

(c) TERMS.—

(1) IN GENERAL.—Appointed trustees shall each serve a term of 4 years, except that of the trustees first appointed, 4 shall serve for a term of 4 years, and 3 shall serve for a term of 2 years.

(2) VACANCIES.—Any vacancy among the appointed trustees shall be filled in the same manner in which the original appointment was made, and any trustee appointed to fill a vacancy shall serve for the remainder of that term for which his or her predecessor was appointed.

(3) LIMITATIONS.—No appointed trustee may serve more than 8 years in consecutive terms.

(d) QUORUM.—A majority of trustees shall constitute a quorum of the Board for the conduct of business.

(e) ORGANIZATION AND COMPENSATION.—

(1) IN GENERAL.—The Board shall organize itself in such a manner as it deems most appropriate to effectively carry out the activities of the Trust.

(2) COMPENSATION OF TRUSTEES.—Trustees shall serve without pay, but may be reimbursed from the funds of the Trust for the actual and necessary travel and subsistence expenses incurred by them in the performance of their duties.

(3) CHAIR.—Trustees shall select a chair from the membership of the Board.

(f) LIABILITY OF TRUSTEES.—Appointed trustees shall not be considered Federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act, the Ethics in Government Act, and the provisions of Chapter 11 of title 18, United States Code.

(g) MEETINGS.—

(1) LOCATION AND TIMING OF MEETINGS.—The Board shall meet in sessions open to the public at least three times per year in New Mexico. Upon a majority vote made in open session, and a public statement of the reasons therefore, the Board may close any other meetings to the public: *Provided,* That any final decision of the Board to adopt or amend the comprehensive management program pursuant to section 108(d) or to approve any activity related to the management of the land or resources of the Preserve shall be made in open public session.

(2) PUBLIC INFORMATION—In addition to other requirements of applicable law, the Board shall establish procedures for providing appropriate public information and opportunities for public comment regarding the management of the Preserve.

SEC. 108. RESOURCE MANAGEMENT.

(a) ASSUMPTION OF MANAGEMENT.—The Trust shall assume all authority provided by the title to manage the Preserve upon a determination by the Secretary, which to the maximum extent practicable shall be made within 60 days after the appointment of the Board, that—

(1) the Board is duly appointed, and able to conduct business; and

(2) provision has been made for essential management services.

(b) MANAGEMENT RESPONSIBILITIES.—Upon assumption of management of the Preserve pursuant to subsection (a), the Trust shall manage the land and resources of the Preserve and the use thereof including, but not limited to such activities as—

(1) administration of the operations of the Preserve;

(2) preservation and development of the land and resources of the Preserve;

(3) interpretation of the Preserve and its history for the public;

(4) management of public use and occupancy of the Preserve; and

(5) maintenance, rehabilitation, repair and improvement of property within the Preserve.

(c) AUTHORITIES.—

(1) IN GENERAL.—The Trust shall develop programs and activities at the Preserve, and shall have the authority to negotiate directly and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation on governmental entity, including without limitation, entities of Federal, State and local governments, and consultation with Indian tribes and pueblos, as are necessary and appropriate to carry out its authorized activities or fulfill the purposes of this title. Any such agreements may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b).

(2) PROCEDURES.—The trust shall establish procedures for entering into lease agreements and other agreements for the use and occupancy of facilities of the Preserve. The procedures shall ensure reasonable competition, and set guidelines for determining reasonable fees, terms, and conditions for such agreements.

(3) LIMITATIONS.—The Trust may not dispose of to any real property in, or convey any water rights appurtenant to the Preserve. The Trust may not convey any easement, or enter into any contract, lease or other agreement related to use and occupancy of property within the Preserve for a period greater than 10 years. Any such easement, contract, or lease or other agreement shall provide that, upon termination of the Trust, such easement, contract, lease or agreement is terminate.

(4) APPLICATION OF PROCUREMENT LAWS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, Federal laws and regulations governing procurement by Federal agencies shall not apply to the Trust, with the exception of laws and regulations relate to Federal government contracts governing health and safety requirements, wage rates, and civil rights.

(B) PROCEDURES.—The Trust, in consultation with the Administrator of Federal Procurement Policy, Office of Management and Budget, shall establish and adopt procedures applicable to the Trust's procurement of goods and services, including the award of contracts on the basis of contractor qualifications, price, commercially reasonable buying practices, and reasonable competition.

(d) MANAGEMENT PROGRAM.—Within two years after assumption of management responsibilities for the Preserve, the Trust shall develop a comprehensive program for the management of lands, resources, and facilities within the Preserve. Such program shall provide for—

(1) operation of the Preserve as a working ranch, consistent with paragraphs (2) through (4);

(2) the protection and preservation of the scenic, geologic, watershed, fish, wildlife, historic, cultural and recreational values of the Preserve;

(3) multiple use and sustained yield, as defined under the Multiple-Use Sustained Yield Act of 1960 (16 U.S.C. 531), of renewable resources within the Preserve;

(4) public use of and access to the Preserve for recreation;

(5) preparation of an annual budget with the goal of achieving a financially self-sustaining operation within 15 full fiscal years after the date of acquisition of the Baca ranch pursuant to section 104(a); and

(6) optimizing the generation of income based on existing market conditions, but without unreasonably diminishing the long-term scenic and natural values of the area, or diminishing the multiple use, sustained yield capability of the land.

(e) PUBLIC USE AND RECREATION.—

(1) IN GENERAL.—The Trust shall give thorough consideration to the provision of provide appropriate opportunities for public use and recreation that are consistent with the other purposes under section 105(b). The

Trust is expressly authorized to construct and upgrade roads and bridges, and provide other facilities for activities including, but not limited to camping and picnicking, hiking, cross country skiing, and snowmobiling. Roads, trails, bridges, and recreational facilities constructed within the Preserve shall meet public safety standards applicable to units of the National Forest System and the State of New Mexico.

(2) FEES.—Notwithstanding any other provision of law, the Trust is authorized to assess reasonable fees for admission to, and the use and occupancy of, the Preserve: *Provided,* That admission fees and any fees assessed for recreational activities shall be implemented only after public notice and a period of not less than 60 days for public comment.

(3) PUBLIC ACCESS.—Upon the acquisition of the Baca ranch pursuant to section 104(a), and after an interim planning period of no more than two years, the public shall have reasonable access to the Preserve for recreation purposes. The Secretary, prior to assumption of management of the Preserve by the Trust, and the Trust thereafter, may reasonably limit the number and types of recreational admissions to the Preserve, or any part thereof, based on the capability of the land, resources, and facilities. The use of reservation or lottery systems is expressly authorized to implement this paragraph.

(f) APPLICABLE LAWS.—

(1) IN GENERAL.—The Trust shall administer the Preserve in conformity with this title and all laws pertaining to the National Forest System, except the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (16 U.S.C. 1600 et seq.).

(2) ENVIRONMENTAL LAWS.—The Trust shall be deemed a federal agency for the purposes of compliance with federal environmental laws.

(3) CRIMINAL LAWS.—All criminal laws relating to Federal property shall apply to the same extent as on adjacent units of the National Forest System.

(4) REPORTS ON APPLICABLE RULES AND REGULATIONS.—The Trust may submit to the Secretary and the Committees of Congress a compilation of applicable rules and regulations which in the view of the Trust are inappropriate, incompatible with this title, or unduly burdensome.

(5) CONSULTATION WITH TRIBES AND PUEBLOS.—The Trust is authorized and directed to cooperate and consult with Indian tribes and pueblos on management policies and practices for the Preserve which may affect them. The Trust is authorized to make lands available within the Preserve for religious and cultural uses by Native Americans and, in so doing, may set aside places and times of exclusive use consistent with the American Indian Religious Freedom Act (42 U.S.C. 1996 (note)) and other applicable statutes.

(6) NO ADMINISTRATIVE APPEAL.—The administrative appeals regulations of the Secretary shall not apply to activities of the Trust and decisions of the Board.

(g) LAW ENFORCEMENT AND FIRE SUPPRESSION.—The Secretary shall provide law enforcement services under a cooperative agreement with the Trust to the extent generally authorized in other units of the National Forest System. At the request of the Trust, the Secretary may provide fire suppression services: *Provided,* That the Trust shall reimburse the Secretary for salaries and expenses of fire suppression personnel, commensurate with services provided.

SEC. 109. AUTHORITIES OF THE SECRETARY.

(a) IN GENERAL.—Notwithstanding the assumption by the Trust of management authority, the Secretary is authorized to—

(1) issue any rights-of-way, as defined in the Federal Land Policy and Management Act of 1976, of over 5–10 years duration, in cooperation with the Trust, including, but not limited to, road and utility rights-of-way, and communication sites;

(2) issue orders pursuant to and enforce prohibitions generally applicable on other units of the National Forest System, in cooperation with the Trust;

(3) exercise the authorities of the Secretary under the Wild and Scenic Rivers Act (16 U.S.C. 1278, et seq.) and the Federal Power Act (16 U..S.C. 797, et seq.), in cooperation with the Trust;

(4) acquire the mineral rights referred to in section 104(e);

(5) provide law enforcement and fire suppression services pursuant to section 108(h);

(6) at the request of the Trust, exchange or otherwise dispose of land or interests in land within the Preserve;

(7) in consultation with the Trust, refer civil and criminal cases pertaining to the Preserve to the Department of Justice for prosecution;

(8) retain title to and control over fossils and archaeological artifacts found with the Preserve;

(9) at the request of the Trust, construct and operate a visitors' center in or near the Preserve, subject to the availability of appropriated funds;

(10) conduct the assessment of the Trust's performance, and, if the Secretary determines it necessary, recommend to Congress the termination of the Trust, pursuant to section 110(b)(2); and

(11) conduct such other activities for which express authorization is provided to the Secretary by this title.

(b) SECRETARIAL AUTHORITY.—the Secretary retains the authority to suspend any decision of the Board with respect to the management of the Preserve if he finds that the decision is clearly inconsistent with this title. Such authority shall only be exercised personally by the Secretary, and may not be delegated. Any exercise of this authority shall be in writing to the Board, and notification of the decision shall be given to the Committees of Congress. Any suspended decision shall be referred back to the Board for reconsideration.

(c) ACCESS.—The Secretary shall at all times have access to the Preserve for administrative purposes.

SEC. 110. TERMINATION OF THE TRUST.

(a) IN GENERAL.—The Valles Caldera Trust shall terminate at the end of the twentieth full fiscal year following acquisition of the Baca ranch pursuant to section 104(a).

(b) RECOMMENDATIONS.—

(1) BOARD.—

(A) If after the fourteenth full fiscal years from the date of acquisition of the Baca ranch pursuant to section 104(a), the Board believes the Trust has met the goals and objectives of the comprehensive management program under section 108(d), but has not become financially self-sufficent, the Board may submit to the Committees of Congress, a recommendation for authorization of appropriations beyond that provided under this title.

(B) During the eighteenth full fiscal year from the date of acquisition of the Baca ranch pursuant to section 104(a), the Board shall submit to the Secretary its recommendation that the Trust be either extended or terminated including the reasons for such recommendation.

(2) SECRETARY.—Within 120 days after receipt of the recommendation of the Board under paragraph (1)(B), the Secretary shall submit to the Committees of Congress the Board's recommendation on extension or termination along with the recommendation of the Secretary with respect to the same and stating the reasons for such recommendation.

(c) EFFECT OF TERMINATION.—In the event of termination of the Trust, the Secretary shall assume all management and administrative functions over the Preserve, and it shall thereafter be managed as a part of the Santa Fe National Forest, subject to all laws applicable to the National Forest System.

(d) ASSETS.—In the event of termination of the Trust, all assets of the Trust shall be used to satisfy any outstanding liabilities, and any funds remaining shall be transferred to the Secretary for use, without further appropriation, for the management of the Preserve.

(e) VALLES CALDERA FUND.—In the event of termination, the Secretary shall assume the powers of the Trust over funds pursuant to section 106(h), and the Valles Caldera Fund shall not terminate. Any balances remaining in the fund shall be available to the Secretary, without further appropriation, for any purpose consistent with the purposes of this title.

SEC. 111. LIMITATIONS ON FUNDING.

(a) AUTHORZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Secretary and the Trust such funds as are necessary for them to carry out the purposes of this title for each of the 15 full fiscal years after the date of acquisition of the Baca ranch pursuant to section 104(a).

(b) SCHEDULE OF APPROPRIATIONS.—Within two years after the first meeting of the Board, the Trust shall submit to Congress a plan which includes a schedule of annual decreasing federally appropriated funds that will achieve, at a minimum, the financially self-sustained operation of the Trust within 15 full fiscal years after the date of acquisition of the Baca ranch pursuant to section 104(a).

(c) ANNUAL BUDGET REQUEST.—The Secretary shall provide necessary assistance, including detailees as necessary, to the Trust in the formulation and submission of the annual budget request for the administration, operation, and maintenance of the Preserve.

SEC. 112. GENERAL ACCOUNTING OFFICE STUDY.

(a) INITIAL STUDY.—Three years after the assumption of management by the Trust, the General Accounting Office shall conduct an interim study of the activities of the Trust and shall report the results of the study to the Committees of Congress. The study shall include, but shall not be limited to, details of programs and activities operated by the Trust and whether it met its obligations under this title.

(b) SECOND STUDY.—Seven years after the assumption of management by the Trust, the General Accounting Office shall conduct a study of the activities of the Trust and shall report the results of the study to the Committees of Congress. The study shall provide an assessment of any failure to meet obligations that may be identified under subsection (a), and further evaluation on the ability of the Trust to meet its obligations under this title.

TITLE II—ACQUISITION OF INHOLDINGS AND DISPOSAL OF SURPLUS LAND

SEC. 201. SHORT TITLE.

This title may be cited as the ''Acquisition of Inholdings and Disposal of Surplus Lands Facilitation Act''.

SEC. 202. FINDINGS.

Congress finds that—

(1) many private individuals own land within the boundaries of Federal land management units and wish to sell this land to the Federal government;

(2) these lands lie within national parks, national forests, national monuments, Bureau of Land Management special areas, and national wildlife refuges;

(3) in many cases, inholders on these lands and the Federal government would mutually benefit by acquiring on a priority basis these lands;

(4) Federal land management agencies are facing increased workloads from rapidly growing public demand for the use of public lands, making it difficult for federal managers to address problems created by the existence of inholdings in many areas;

(5) through land use planning under the Federal Land Policy and Management Act of 1976 the Bureau of Land Management has identified certain public lands for disposal;

(6) the Bureau of Land Management has authority under the Federal Land Policy and Management Act of 1976 to exchange or sell lands identified for disposal under its land use planning;

(7) a more expeditious process for disposition of public lands identified for disposal would benefit the public interest;

(8) the sale or exchange of land identified for disposal would—

(A) allow for the reconfiguration of land ownership patterns to better facilitate resource management;

(B) contribute to administrative efficiency within the federal land management unit; and

(C) allow for increased effectiveness of the allocation of fiscal and human resources within the agency;

(9) in certain locations, the sale of public land which has been identified for disposal is the best way for the public to receive a fair market value for the land;

(10) using proceeds generated from the disposal of public land to purchase inholdings from willing sellers would enhance the ability of the Federal land management agencies to work cooperatively with private land owners, and State and local governments and promote consolidation of the ownership of public and private land in a manner that would allow for better overall resource management;

(11) proceeds generated from the disposal of public land may be properly dedicated to the acquisition of inholdings; and

(12) to allow for the least disruption of existing land and resource management programs, the Bureau of Land Management may use non-Federal entities to prepare appraisal documents for agency review and approval in accordance with the applicable appraisal standards.

SEC. 203. DEFINITIONS.

In this title:

(1) FEDERALLY DESIGNATED AREAS.—The term ''Federally designated areas'' means land in Alaska and the eleven contiguous Western States as defined in section 103(o) of the Federal Land Policy and Management Act (43 U.S.C. 1702(o)) that on the date of enactment of this title was within the boundary of—

(A) a unit of the National Park System;

(B) National Monuments, Areas of Critical Environmental Concern, National Conservation Areas, National Riparian Conservation Areas, Research Natural Areas, Outstanding Natural Areas, and National Natural Landmarks managed by the Bureau of Land Management.

(C) National Recreation Areas, National Scenic Areas, National Monuments, National Volcanic Areas, and other areas within the National Forest System designated for special management by an Act of Congress;

(D) a unit of the National Wildlife Refuge System; and

(E) a wilderness area designated under the Wilderness Act of 1964, as amended (16 U.S.C. 1131 et seq.); an area designated under the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1271 et seq.); and an area designated under the National Trails System Act, as amended (16 U.S.C. 1241 et seq.).

(2) INHOLDING.—The term ''inholding'' means any right, title, or interest, held by a non-Federal entity, in or to a tract of land which lies within the boundary of a Federally designated area; the term ''inholding'' does not include lands or interests in lands for which clear title has not been established (except where waved by the Federal government), rights-of-way (including railroad rights-of-way), and existing easements; and

(3) PUBLIC LAND.—The term ''public land'' means public lands as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

SEC. 204. IDENTIFICATION OF INHOLDINGS WITHIN FEDERALLY DESIGNATED AREAS.

(a) MULTI-AGENCY EVALUATION TEAM.—

(1) IN GENERAL.—Jointly, the Secretary of the Interior and the Secretary of Agriculture (the Secretaries) shall establish a multiagency evaluation team composed of agency personnel to conduct a program to identify, by state, inholdings within Federally designated areas and establish the dates upon which the lands or interests therein became inholdings. Inholdings shall be identified using the means set forth under subsection (d). Inholdings shall be deemed established as of the latter of—

(A) the date the Federal land was withdrawn from the public domain, or established or designated for special management, whichever is earlier; or

(B) the date on which the inholding was acquired by the current owner.

(2) PUBLIC NOTICE.—The Secretaries shall provide notice to the public in the Federal Register (and through other such means as the Secretaries may determine to be appropriate) of a program of identification of inholdings within Federally designated areas by which any owner who wants to sell such an inholding to the United States shall provide to the Secretaries such information regarding that inholding as is required by the notice.

(b) COMPOSITION OF THE EVALUATION TEAM.—The team shall be composed of employees of the National Park Service, the Fish and Wildlife Service, the Bureau of Land Management, the Department of Agriculture, Forest Service, and other agencies as appropriate.

(c) TIMING.—The Secretaries shall establish the Evaluation Team within 90 days after the enactment of this title.

(d) DUTIES OF THE EVALUATION TEAM.—The team shall be charged with the identification of inholdings within Federally designated areas, by state, and by the date upon which the lands or interests therein became inholdings. Inholdings will be identified using—

(1) the list of inholdings identified by owners pursuant to subsection (a)(2); and

(2) tracts of land identified through existing agency planning processes.

(e) REPORT.—The Secretaries shall submit a report to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, and the Committee on Resources and the Committee on Appropriations of the House of Representatives on the status of their evaluations within one year after the enactment of this title, and at the end of each 180 days increment thereafter until such time as reasonable efforts to identify inholdings have been made or the program established in section 205 terminates.

(f) FUNDING.—Funding to carry out this section shall be taken from operating funds of the agencies involved and shall be reimbursed from the account established under section 206.

SEC. 205. DISPOSAL OF SURPLUS PUBLIC LAND.

(a) IN GENERAL.—The Secretary of the Interior (in this section, the ''Secretary'') shall establish a program, utilizing funds available under section 207, to complete appraisals and other legal requirements for the sale or exchange of land identified for disposal under approved land use plans maintained under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) and in effect on the date of enactment of this title.

(b) SALE OF PUBLIC LAND.—The sale of public land so identified shall be conducted in accordance with section 203 and section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713, 1719). It is the intent of Congress that the exceptions to competitive bidding requirements under section 203(f) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713(f) apply under this title, where the Secretary of the Interior determines it necessary and proper.

(c) REPORT IN PUBLIC LAND STATISTICS.—The Secretary shall provide in the annual publication of Public Land Statistics, a report of activities related to the program established under this section.

(d) TERMINATION OF PROGRAM.—The program established by this section shall terminate ten years from the date of enactment of this title.

SEC. 206. DISTRIBUTION OF RECEIPTS.

Notwithstanding any other Act, except that specifically providing for a proportion of the proceeds to be distributed to any trust funds of any States, gross proceeds generated by the sale or exchange of public land under this title shall be deposited in a separate account in the Treasury of the United States to be known as the ''Federal Land Disposal Account'', for use as provided under section 207.

SEC. 207. FEDERAL LAND DISPOSAL ACCOUNT.

(a) IN GENERAL.—Amounts in the Federal Land Disposal Account shall be available to the Secretary of the Interior and the Secretary of Agriculture, without further act of appropriation, to carry out this title.

(b) USE OF THE FEDERAL LAND DISPOSAL ACCOUNT.—Funds deposited in the Federal Land Disposal Account may be expended as follows—

(1) except as authorized under paragraph (7), proceeds from the disposal of lands under this title shall be used to purchase inholdings contained within Federal designated areas;

(2) acquisition priority shall be given to those lands which have existed as inholdings for the longest period of time, except that the Secretaries may develop criteria for priority of acquisition considering the following additional factors—

(A) limits in size or cost in order to maximize the utilization of funds among eligible inholdings; and

(B) other relevant factors including, but not limited to, the condition of title and the existence of hazardous substances;

(3) acquisition of any inholding under this section shall be on a willing seller basis contingent upon the conveyance of title acceptable to the appropriate Secretary utilizing title standards of the Attorney General;

(4) all proceeds, including interest, from the disposal of lands under section 205 shall be expended within the state in which they were generated until a reasonable effort has been made to acquire all inholdings identified by the evaluation team pursuant to section 204 within that state;

(5) upon the acquisition of all inholdings under paragraph (4), proceeds may be expended in other states, and a priority shall be established in order of those states having the greatest inventory of unacquired inholdings as of the beginning of the fiscal year in which the excess proceeds become available;

(6) the acquisition of inholdings under this section shall be at fair market value;

(7) an amount not to exceed 20 percent of the funds in the Federal Land Disposal Account shall be used for administrative and other expenses necessary to carry out the land disposal program under section 205;

(c) CONTAMINATED SITES AND SITES DIFFICULT AND UNECONOMIC TO MANAGE.—Funds in the account established by section 206 shall not be used to purchase or lands or interests in lands which, as determined by the agency, contain hazardous substances or are otherwise contaminated, or which, because of their location or other characteristics, would be difficult or uneconomic to manage as Federal land.

(d) INVESTMENT OF PRINCIPAL.—Funds deposited as principal in the Federal Land Disposal Account shall earn interest in the amount determined by the Secretary of the Treasury based on the current average market yield on outstanding marketable obligations of the United States of comparable maturities.

(e) LAND AND WATER CONSERVATION FUND ACT.—Funds made available under this section shall be supplemental to any funds appropriated under the Land and Water Conservation Fund Act (16 U.S.C. 460*l*–4 through 460*l*–6a, 460*l*–7 through 460*l*–10, 460*l*–10a–d, 460*l*–11).

(f) TERMINATION.—On termination of the program under section 205—

(1) the Federal Land Disposal Account shall be terminated; and

(2) any remaining balance in such account shall become available for appropriation under section 3 of the Land and Water Conservation Fund Act (16 U.S.C. 460*l*–6).

SEC. 208. SPECIAL PROVISIONS.

(a) IN GENERAL.—Nothing in this title shall be construed as an exemption from any existing limitation on the acquisition of lands of interests therein under any Federal law.

(b) SANTINI-BURTON ACT.—The provisions of this title shall not apply to lands eligible for sale pursuant to the Santini-Burton Act (94 Stat. 3381).

(c) EXCHANGES.—Nothing in this title shall be construed as precluding, pre-empting, or limiting the authority to exchange lands under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), or the Federal Land Exchange Facilitation Act of 1988 (site).

(d) RIGHT OR BENEFIT.—This title is intended to provide direction regarding Federal land management. Nothing herein is intended to, or shall create a right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, its officers, or any other person.

STATEMENT OF PRINCIPLES

I. BACA RANCH

The Baca ranch in New Mexico is a unique land area, with significant scientific, cultural, historic, recreational, ecological, and production values. Management of this working ranch by the current owners has included limited grazing, hunting, and timber harvesting, and it depicts a model for sustainable land development and use. It is our intention to continue to follow this model. The unique nature of the Baca ranch requires a unique program for appropriate preservation, operation and maintenance of the ranch.

Legislation to authorize the Federal acquisition and establish a unique management framework will:

(1) Provide for federal acquisition of the Baca Ranch property by the U.S. Forest Service, assuming agreement with the current owners on a fair price based on an objective appraisal;

(2) Provide for innovative management by a Trust, being a wholly owned government corporation comprised of individuals, (appointed by the President with New Mexican input), with appropriate and varied expertise relevant to the unique management issues. These individuals will administer the operation, maintenance, management, and use of the ranch, based on appropriate public input and with governmental oversight;

(3) Provide management principles including protection of the unique values of the property in all of the areas listed above, and demonstration of sustainable land use including recreational opportunities, selective timbering, limited grazing and hunting, and the use of appropriate range and silvicultural management with significant species diversity. Management shall be in furtherance of these goals and provide for the eventual financial self-sufficiency of the operation without violating other management goals;

(4) Provide an opportunity for the Trust, should it not achieve financial self-sufficiency by its ninth year of operation, to continue operating upon agreement between Congress and the President, after showing rationale for not attaining a financially self-sufficient operation; and

(5) Provide for an initial appropriation in an amount necessary for management of the property.

The parties further agree to work together to make available the $20 million appropriated in the 1998 Land and Water Conservation Fund, the $20 million in FY99 requested by the President for use to purchase the Baca ranch, and additional funds necessary to complete the purchase following an acceptable and reasonable appraisal and agreement on price between buyer and seller.

II. INHOLDER RELIEF AND SURPLUS LAND DISPOSAL

Millions of acres of private land lie within the boundaries of Federal land management units. BLM currently has authority to exchange or sell lands identified for disposal in its planning process. Using proceeds generated from the disposal of these public lands to purchase inholdings in federally designated areas from willing sellers would supplement funds appropriated under the Land and Water Conservation Fund. Legislation to address these interrelated land management problems will—

(1) Establish a program to conduct appraisals and other legal requirements for the disposal of public land identified in existing BLM management plans as surplus;

(2) Establish a special account for the receipts generated from the disposal of these lands, available to the Secretaries to acquire inholdings without further appropriation, provided—

The acquisition will be from willing sellers, with priority given to lands existing as inholdings for the longest time;

Proceeds from the sale of surplus lands must be spent within the state in which they were generated until all available inholdings are purchased;

The proceeds in the special account are to supplement, not supplant, appropriations to the Land and Water Conservation Fund; and

An appropriate amount of the proceeds will be used to conduct appraisal and other administrative steps necessary to complete the sale of surplus lands; and

(3) Terminates the land disposal program and account after ten years.

By Mr. ROTH (for himself, Mr. MOYNIHAN, Mr. CHAFEE, Mr. BAUCUS, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HATCH, Mr. BREAUX, Mr. D'AMATO, Mr. CONRAD, Mr. MURKOWSKI, Mr. GRAHAM, Mr. JEFFORDS, Ms. MOSELEY-BRAUN, Mr. MACK, Mr. BRYAN, and Mr. KERREY):

S. 2622. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; to the Committee on Finance.

THE TAX RELIEF EXTENSION ACT OF 1998

Mr. ROTH. Mr. President, I rise to introduce the ''Tax Relief Extension Act of 1998''. I am pleased to have as my principal cosponsor my distinguished friend and Ranking Member of the Finance Committee, DANIEL PATRICK MOYNIHAN. Fifteen Finance Committee Members have joined Senator MOYNIHAN and myself on this bill.

Before I discuss the Finance Committee bill, I'd like to comment on the House bill.

Chairman ARCHER and I attempted to negotiate a bill that would address expiring tax and trade provisions.

Chairman ARCHER and I had many discussions and made a lot of progress in trying to resolve differences on extenders, but we were unable to reach agreement. Let me say the House bill has many worthwhile proposals that we in the Senate should support.

Mr. President, we find ourselves in a difficult situation. Although the House bill has many good proposals, it is unlikely the House bill will move by unanimous consent in the Senate in its present form. We will not be able to obtain unanimous consent because the House resisted negotiations on expiring provisions important to Members of the Senate.

I remain hopeful that the House and Senate can reach agreement on an extenders bill. I believe the Finance Committee is taking a step today that can lead us to that agreement.

Mr. President, this bill is the product of a Finance Committee meeting yesterday. At that meeting, a bi-partisan majority of the committee agreed on a package to address expiring tax and trade provisions—the so-called extenders. This bill is meant to be offered as a substitute to H.R. 4738, the House extender bill.

We expect to consider the House bill together with the Finance Committee bill shortly.

This Finance Committee bill follows three principles:

All non-controversial expiring provisions are covered;

No policy changes are made to the extenders—only date changes; and

The package is fully offset.

The purpose of this bill is to leave tax policy on the expiring provisions settled until the next Congress. At that time, hopefully, we will be considering a major tax cut bill. When we are considering that tax cut bill next year, we will be able to address the policy and long-term period of the various provisions.

This bill is necessarily narrow. There are no Member provisions in this bill, including some I am interested in. In order to expedite this bill, the Finance Committee Members on this bill agreed to forego Member issues.

This bill extends several important provisions in the tax and trade areas, including:

The research and development tax credit;

The work opportunity tax credit;

The welfare to work tax credit;

The full deductibility of contributions of appreciated stock to private foundations;

The active financing exception to Subpart F for financial services operations overseas;

The tax information reporting access for the Department of Education for the Federal student aid programs;

The Generalized System of Preferences (''GSP''); and

The trade adjustment assistance (''TAA'') program.

In addition to extenders, the Finance Committee bill speeds up the full deductibility of health insurance deduction for self-employed persons. This bill also addresses time sensitive farm-related issues.

The final provision in this bill would correct an upcoming problem for millions of middle income taxpayers. The Taxpayer Relief Act of 1997 included tax relief for America's working families in the form of the $500 per child tax credit and the Hope Scholarship tax credit, and other benefits. Taxpayers will expect to see these benefits when they file their returns on April 15th.

What some of these families will find is that the tax relief they expected will not materialize because of the alternative minimum tax (''AMT''). That is, these tax credits do not count against the alternative minimum tax. The final provision in the Finance Committee bill would provide that benefits such as the $500 per child tax credit would count against the alternative minimum tax.

This point deserves emphasis. We can correct this problem for millions of taxpayers in this bill. As Chairman of the Finance Committee, I consider it my responsibility to simplify the tax code whenever possible. This last provision provides us with that opportunity. I am pleased the Members of the Finance Committee back me in this effort.

Finally, I'd like return to the Senate's procedures, schedule, and the prospects for extender legislation.

It is important to recognize that the House and Senate are very different bodies governed by starkly different rules and traditions. Unlike the House, the Senate Rules and schedule do not allow us to move this bill at this point in any other way than by unanimous consent. If we are to address these tax and trade provisions, we will need the cooperation of every Senator.

If we can get every Senator's cooperation, and resolve our differences with the House, I believe we can deliver an extenders bill the President will sign.

I urge my colleagues to support this Finance Committee bill.

Mr. President, I ask unanimous consent that the text of the bill, a section-by-section analysis, and revenue table of the legislation, be printed in the RECORD.

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

S. 2622

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

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

(a) SHORT TITLE.—This Act may be cited as the ''Tax Relief Extension Act of 1998''.

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

(c) TABLE OF CONTENTS.—

TITLE I—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Tax Provisions

SEC. 101. RESEARCH CREDIT.

(a) TEMPORARY EXTENSION.—

(1) IN GENERAL.—Paragraph (1) of section 41(h) (relating to termination) is amended—

(A) by striking ''June 30, 1998'' and inserting ''June 30, 1999'',

(B) by striking ''24-month'' and inserting ''36-month'', and

(C) by striking ''24 months'' and inserting ''36 months''.

(2) TECHNICAL AMENDMENT.—Subparagraph (D) of section 45C(b)(1) is amended by striking ''June 30, 1998'' and inserting ''June 30, 1999''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1998.

SEC. 102. WORK OPPORTUNITY CREDIT.

(a) TEMPORARY EXTENSION.—Subparagraph (B) of section 51(c)(4) (relating to termination) is amended by striking ''June 30, 1998'' and inserting ''June 30, 1999''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals who begin work for the employer after June 30, 1998.

SEC. 103. WELFARE-TO-WORK CREDIT.

Subsection (f) of section 51A (relating to termination) is amended by striking ''April 30, 1999'' and inserting ''June 30, 1999''.

SEC. 104. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Subparagraph (D)(ii) of section 170(e)(5) is amended by striking ''June 30, 1998'' and inserting ''June 30, 1999''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after June 30, 1998.

SEC. 105. SUBPART F EXEMPTION FOR ACTIVE FINANCING INCOME.

(a) IN GENERAL.—Paragraph (9) of section 954(h) (relating to application) is amended to read as follows:

''(9) APPLICATION.—This subsection shall apply to—

''(A)(i) the first full taxable year of a foreign corporation beginning after December 31, 1997, and before January 1, 1999, and the taxable year of such corporation immediately following such taxable year, or

''(ii) if a foreign corporation has no such first full taxable year, the first taxable year of such corporation beginning after December 31, 1998, and before January 1, 2000, and

''(B) taxable years of United States shareholders of a foreign corporation with or within which the corporation's taxable years described in subparagraph (A) end.''

(b) CONFORMING AMENDMENT.—Section 1175(c) of the Taxpayer Relief Act of 1997 is repealed.

SEC. 106. CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Section 29(g)(1)(A) is amended by striking ''July 1, 1998'' and inserting ''July 1, 1999''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to facilities placed in service after June 30, 1998.

SEC. 107. DISCLOSURE OF RETURN INFORMATION ON INCOME CONTINGENT STUDENT LOANS.

Subparagraph (D) of section 6103(l)(13) (relating to disclosure of return information to carry out income contingent repayment of student loans) is amended by striking ''September 30, 1998'' and inserting ''September 30, 2004''.

Subtitle B—Extension of Expired Trade Provisions

SEC. 111. EXTENSION OF DUTY-FREE TREATMENT UNDER GENERAL SYSTEM OF PREFERENCES.

(a) IN GENERAL.—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended by striking ''June 30, 1998'' and inserting ''December 31, 1999''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section apply to articles entered on or after October 1, 1998.

(2) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(A) GENERAL RULE.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to paragraph (3), any article that was entered—

(i) after June 30, 1998, and

(ii) before October 1, 1998, and

to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on June 30, 1998, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(B) LIMITATIONS ON REFUNDS.—No refund shall be made pursuant to this paragraph before October 1, 1998.

(C) ENTRY.—As used in this paragraph, the term ''entry'' includes a withdrawal from warehouse for consumption.

(3) REQUESTS.—Liquidation or reliquidation may be made under paragraph (2) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

SEC. 112. TRADE ADJUSTMENT ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended—

(A) in subsection (a), by striking ''1993, 1994, 1995, 1996, 1997, and 1998,'' and inserting ''1998 and 1999,''; and

(B) in subsection (b), by striking ''1994, 1995, 1996, 1997, and 1998,'' and inserting ''1998 and 1999,''.

(2) ASSISTANCE FOR FIRMS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking ''1993, 1994, 1995, 1996, 1997, and'' and inserting '', and 1999,'' after ''1998''.

(b) TERMINATION.—Section 285(c) of the Trade Act of 1974 (19 U.S.C. 2271 note preceding) is amended—

(1) in paragraph (1), by striking ''September 30, 1998'' and inserting ''June 30, 1999''; and

(2) in paragraph (2)(A), by striking ''the day that is'' and all that follows through ''effective'' and inserting ''June 30, 1999''.

TITLE II—OTHER TAX PROVISIONS

SEC. 201. 100-PERCENT DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Subparagraph (B) of section 162(l)(1) (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be—

''(i) 45 percent for taxable years beginning in 1999 and 2000,

''(ii) 70 percent for taxable years beginning in 2001, and

''(iii) 100 percent for taxable years beginning after December 31, 2001.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 202. PRODUCTION FLEXIBILITY CONTRACT PAYMENTS.

(a) IN GENERAL.—The options under paragraphs (2) and (3) of section 112(d) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7212(d) (2) and (3)), as in effect on the date of the enactment of this Act, shall be disregarded in determining the taxable year for which any payment under a production flexibility contract under subtitle B of title I of such Act (as so in effect) is properly includible in gross income for purposes of the Internal Revenue Code of 1986.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to taxable years ending after December 31, 1995.

SEC. 203. INCOME AVERAGING FOR FARMERS MADE PERMANENT.

Subsection (c) of section 933 of the Taxpayer Relief Act of 1997 is amended by striking '', and before January 1, 2001''.

SEC. 204. NONREFUNDABLE PERSONAL CREDITS FULLY ALLOWED AGAINST REGULAR TAX LIABILITY DURING 1998.

(a) IN GENERAL.—Subsection (a) of section 26 is amended by adding at the end the following flush sentence:

''For purposes of paragraph (2), the taxpayer's tentative minimum tax for any taxable year beginning during 1998 shall be treated as being zero.''

(b) CONFORMING AMENDMENT.—Section 24(d)(2) is amended by striking ''The credit'' and ''For taxable years beginning after December 31, 1998, the credit''.

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

TITLE III—REVENUE OFFSET

SEC. 301. TREATMENT OF CERTAIN DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.

(a) IN GENERAL.—Section 332 (relating to complete liquidations of subsidiaries) is amended by adding at the end the following new subsection:

''(c) DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—If a corporation receives a distribution from a regulated investment company or a real estate investment trust which is considered under subsection (b) as being in complete liquidation of such company or trust, then, notwithstanding any other provision of this chapter, such corporation shall recognize and treat as a dividend from such company or trust an amount equal to the deduction for dividends paid allowable to such company or trust by reason of such distribution.''

(b) CONFORMING AMENDMENTS.—

(1) The material preceding paragraph (1) of section 332(b) is amended by striking ''subsection (a)'' and inserting ''this section''.

(2) Paragraph (1) of section 334(b) is amended by striking ''section 332(a)'' and inserting ''section 332''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after May 21, 1998.

TITLE IV—TECHNICAL CORRECTIONS

SEC. 401. DEFINITIONS; COORDINATION WITH OTHER TITLES.

(a) DEFINITIONS.—For purposes of this title—

(1) 1986 CODE.—The term ''1986 Code'' means the Internal Revenue Code of 1986.

(2) 1998 ACT.—The term ''1998 Act'' means the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206).

(3) 1997 ACT.—The term ''1997 Act'' means the Taxpayer Relief Act of 1997 (Public Law 105–34).

(b) COORDINATION WITH OTHER TITLES.—For purposes of applying the amendments made by any title of this Act other than this title, the provisions of this title shall be treated as having been enacted immediately before the provisions of such other titles.

SEC. 402. AMENDMENTS RELATED TO INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998.

(a) AMENDMENT RELATED TO SECTION 1101 OF 1998 ACT.—Paragraph (5) of section 6103(h) of the 1986 Code, as added by section 1101(b) of the 1998 Act, is redesignated as paragraph (6).

(b) AMENDMENT RELATED TO SECTION 3001 OF 1998 ACT.—Paragraph (2) of section 7491(a) of the 1986 Code is amended by adding at the end the following flush sentence:

''Subparagraph (C) shall not apply to any qualified revocable trust (as defined in section 645(b)(1)) with respect to liability for tax for any taxable year ending after the date of the decedent's death and before the applicable date (as defined in section 645(b)(2)).''.

(c) AMENDMENTS RELATED TO SECTION 3201 OF 1998 ACT.—

(1) Section 7421(a) of the 1986 Code is amended by striking ''6015(d)'' and inserting ''6015(e)''.

(2) Subparagraph (A) of section 6015(e)(3) is amended by striking ''of this section'' and inserting ''of subsection (b) or (f)''.

(d) AMENDMENT RELATED TO SECTION 3301 OF 1998 ACT.—Paragraph (2) of section 3301(c) of the 1998 Act is amended by striking ''The amendments'' and inserting ''Subject to any applicable statute of limitation not having expired with regard to either a tax underpayment or a tax overpayment, the amendments''.

(e) AMENDMENT RELATED TO SECTION 3401 OF 1998 ACT.—Section 3401(c) of the 1998 Act is amended—

(1) in paragraph (1), by striking ''7443(b)'' and inserting ''7443A(b)''; and

(2) in paragraph (2), by striking ''7443(c)'' and inserting ''7443A(c)''.

(f) AMENDMENT RELATED TO SECTION 3433 OF 1998 ACT.—Section 7421(a) of the 1986 Code is amended by inserting ''6331(i),'' after ''6246(b),''.

(g) AMENDMENT RELATED TO SECTION 3467 OF 1998 ACT.—The subsection (d) of section 6159 of the 1986 Code relating to cross reference is redesignated as subsection (e).

(h) AMENDMENT RELATED TO SECTION 3708 OF 1998 ACT.—Subparagraph (A) of section 6103(p)(3) of the 1986 Code is amended by inserting ''(f)(5),'' after ''(c), (e),''.

(i) AMENDMENTS RELATED TO SECTION 5001 OF 1998 ACT.—

(1) Subparagraph (B) of section 1(h)(13) of the 1986 Code is amended by striking ''paragraph (7)(A)'' and inserting ''paragraph (7)(A)(i)''.

(2)(A) Subparagraphs (A)(i)(II), (A)(ii)(II), and (B)(ii) of section 1(h)(13) of the 1986 Code shall not apply to any distribution after December 31, 1997, by a regulated investment company or a real estate investment trust with respect to—

(i) gains and losses recognized directly by such company or trust, and

(ii) amounts properly taken into account by such company or trust by reason of holding (directly or indirectly) an interest in another such company or trust to the extent that such subparagraphs did not apply to such other company or trust with respect to such amounts.

(B) Subparagraph (A) shall not apply to any distribution which is treated under section 852(b)(7) or 857(b)(8) of the 1986 Code as received on December 31, 1997.

(C) For purposes of subparagraph (A), any amount which is includible in gross income of its shareholders under section 852(b)(3)(D) or 857(b)(3)(D) of the 1986 Code after December 31, 1997, shall be treated as distributed after such date.

(D)(i) For purposes of subparagraph (A), in the case of a qualified partnership with respect to which a regulated investment company meets the holding requirement of clause (iii)—

(I) the subparagraphs referred to in subparagraph (A) shall not apply to gains and losses recognized directly by such partnership for purposes of determining such company's distributive share of such gains and losses, and

(II) such company's distributive share of such gains and losses (as so determined) shall be treated as recognized directly by such company.

The preceding sentence shall apply only if the qualified partnership provides the company with written documentation of such distributive share as so determined.

(ii) For purposes of clause (i), the term ''qualified partnership'' means, with respect to a regulated investment company, any partnership if—

(I) the partnership is an investment company registered under the Investment Company Act of 1940,

(II) the regulated investment company is permitted to invest in such partnership by reason of section 12(d)(1)(E) of such Act or an exemptive order of the Securities and Exchange Commission under such section, and

(III) the regulated investment company and the partnership have the same taxable year.

(iii) A regulated investment company meets the holding requirement of this clause with respect to a qualified partnership if (as of January 1, 1998)—

(I) the value of the interests of the regulated investment company in such partnership is 35 percent or more of the value of such company's total assets, or

(II) the value of the interests of the regulated investment company in such partnership and all other qualified partnerships is 90 percent or more of the value of such company's total assets.

(3) Paragraph (13) of section 1(h) of the 1986 Code is amended by adding at the end the following new subparagraph:

''(D) CHARITABLE REMAINDER TRUSTS.—Subparagraphs (A) and (B)(ii) shall not apply to any capital gain distribution made by a trust described in section 664.''

(j) AMENDMENT RELATED TO SECTION 7004 OF 1998 ACT.—Clause (i) of section 408A(c)(3)(C) of the 1986 Code, as amended by section 7004 of the 1998 Act, is amended by striking the period at the end of subclause (II) and inserting '', and''.

(k) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the 1998 Act to which they relate.

SEC. 403. AMENDMENTS RELATED TO TAXPAYER RELIEF ACT OF 1997.

(a) AMENDMENTS RELATED TO SECTION 202 OF 1997 ACT.—

(1) Paragraph (2) of section 163(h) of the 1986 Code is amended by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', and'', and by adding at the end the following new subparagraph:

''(F) any interest allowable as a deduction under section 221 (relating to interest on educational loans).''

(2)(A) Subparagraph (C) of section 221(b)(2) of the 1986 Code is amended—

(i) by striking ''135, 137,'' in clause (i),

(ii) by inserting ''135, 137,'' after ''sections 86,'' in clause (ii), and

(iii) by striking the last sentence.

(B) Sections 86(b)(2)(A), 135(c)(4)(A), and 219(g)(3)(A)(ii) of the 1986 Code are each amended by inserting ''221,'' after ''137,''.

(C) Subparagraph (A) of section 137(b)(3) of the 1986 Code is amended by inserting ''221,'' before ''911,''.

(D) Clause (iii) of section 469(i)(3)(E) of the 1986 Code is amended to read as follows:

''(iii) the amounts allowable as a deduction under sections 219 and 221, and''.

(3) The last sentence of section 221(e)(1) of the 1986 Code is amended by inserting before the period ''or to any person by reason of a loan under any qualified employer plan (as defined in section 72(p)(4)) or under any contract referred to in section 72(p)(5)''.

(b) PROVISION RELATED TO SECTION 311 OF 1997 ACT.—In the case of any capital gain distribution made after 1997 by a trust to which section 664 of the 1986 Code applies with respect to amounts properly taken into account by such trust during 1997, paragraphs (5)(A)(i)(I), (5)(A)(ii)(I), and (13)(A) of section 1(h) of the 1986 Code (as in effect for taxable years ending on December 31, 1997) shall not apply.

(c) AMENDMENT RELATED TO SECTION 506 OF 1997 ACT.—Section 2001(f)(2) of the 1986 Code is amended by adding at the end the following:

''For purposes of subparagraph (A), the value of an item shall be treated as shown on a return if the item is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item.''.

(d) AMENDMENTS RELATED TO SECTION 904 OF 1997 ACT.—

(1) Paragraph (1) of section 9510(c) of the 1986 Code is amended to read as follows:

''(1) IN GENERAL.—Amounts in the Vaccine Injury Compensation Trust Fund shall be available, as provided in appropriation Acts, only for—

''(A) the payment of compensation under subtitle 2 of title XXI of the Public Health Service Act (as in effect on August 5, 1997) for vaccine-related injury or death with respect to any vaccine—

''(i) which is administered after September 30, 1988, and

''(ii) which is a taxable vaccine (as defined in section 4132(a)(1)) at the time compensation is paid under such subtitle 2, or

''(B) the payment of all expenses of administration (but not in excess of $9,500,000 for any fiscal year) incurred by the Federal Government in administering such subtitle.''.

(2) Section 9510(b) of the 1986 Code is amended by adding at the end the following new paragraph:

''(3) LIMITATION ON TRANSFERS TO VACCINE INJURY COMPENSATION TRUST FUND.—No amount may be appropriated to the Vaccine Injury Compensation Trust Fund on and after the date of any expenditure from the Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

''(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

''(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.''.

(e) AMENDMENTS RELATED TO SECTION 915 OF 1997 ACT.—

(1) Section 915 of the 1997 Act is amended—

(A) in subsection (b), by inserting ''or 1998'' after ''1997'', and

(B) by amending subsection (d) to read as follows:

''(d) EFFECTIVE DATE.—This section shall apply to taxable years ending with or within calendar year 1997.''.

(2) Paragraph (2) of section 6404(h) of the 1986 Code is amended by inserting ''Robert T. Stafford'' before ''Disaster''.

(f) AMENDMENTS RELATED TO SECTION 1012 OF 1997 ACT.—

(1) Paragraph (2) of section 351(c) of the 1986 Code, as amended by section 6010(c) of the 1998 Act, is amended by inserting '', or the fact that the corporation whose stock was distributed issues additional stock,'' after ''dispose of part or all of the distributed stock''.

(2) Clause (ii) of section 368(a)(2)(H) of the 1986 Code, as amended by section 6010(c) of the 1998 Act, is amended by inserting '', or the fact that the corporation whose stock was distributed issues additional stock,'' after ''dispose of part or all of the distributed stock''.

(g) PROVISION RELATED TO SECTION 1042 OF 1997 ACT.—Rules similar to the rules of section 1.1502-75(d)(5) of the Treasury Regulations shall apply with respect to any organization described in section 1042(b) of the 1997 Act.

(h) AMENDMENT RELATED TO SECTION 1082 OF 1997 ACT.—Subparagraph (F) of section 172(b)(1) of the 1986 Code is amended by adding at the end the following new clause:

''(iv) COORDINATION WITH PARAGRAPH (2).—For purposes of applying paragraph (2), an eligible loss for any taxable year shall be treated in a manner similar to the manner in which a specified liability loss is treated.''

(i) AMENDMENT RELATED TO SECTION 1084 OF 1997 ACT.—Paragraph (3) of section 264(f) of the 1986 Code is amended by adding at the end the following flush sentence:

''If the amount described in subparagraph (A) with respect to any policy or contract does not reasonably approximate its actual value, the amount taken into account under subparagraph (A) shall be the greater of the amount of the insurance company liability or the insurance company reserve with respect to such policy or contract (as determined for purposes of the annual statement approved by the National Association of Insurance Commissioners) or shall be such other amount as is determined by the Secretary.''

(j) AMENDMENT RELATED TO SECTION 1175 OF 1997 ACT.—Subparagraph (C) of section 954(e)(2) of the 1986 Code is amended by striking ''subsection (h)(8)'' and inserting ''subsection (h)(9)''.

(k) AMENDMENT RELATED TO SECTION 1205 OF 1997 ACT.—Paragraph (2) of section 6311(d) of the 1986 Code is amended by striking ''under such contracts'' in the last sentence and inserting ''under any such contract for the use of credit, debit, or charge cards for the payment of taxes imposed by subtitle A''.

(l) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the 1997 Act to which they relate.

SEC. 404. AMENDMENTS RELATED TO TAX REFORM ACT OF 1984.

(a) IN GENERAL.—Subparagraph (C) of section 172(d)(4) of the 1986 Code is amended to read as follows:

''(C) any deduction for casualty or theft losses allowable under paragraph (2) or (3) of section 165(c) shall be treated as attributable to the trade or business; and''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 67(b) of the 1986 Code is amended by striking ''for losses described in subsection (c)(3) or (d) of section 165'' and inserting ''for casualty or theft losses described in paragraph (2) or (3) of section 165(c) or for losses described in section 165(d)''.

(2) Paragraph (3) of section 68(c) of the 1986 Code is amended by striking ''for losses described in subsection (c)(3) or (d) of section 165'' and inserting ''for casualty or theft losses described in paragraph (2) or (3) of section 165(c) or for losses described in section 165(d)''.

(3) Paragraph (1) of section 873(b) is amended to read as follows:

''(1) LOSSES.—The deduction allowed by section 165 for casualty or theft losses described in paragraph (2) or (3) of section 165(c), but only if the loss is of property located within the United States.''

(c) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b)(3) shall apply to taxable years beginning after December 31, 1983.

(2) The amendment made by subsection (b)(1) shall apply to taxable years beginning after December 31, 1986.

(3) The amendment made by subsection (b)(2) shall apply to taxable years beginning after December 31, 1990.

SEC. 405. OTHER AMENDMENTS.

(a) AMENDMENTS RELATED TO SECTION 6103 OF 1986 CODE.—

(1) Subsection (j) of section 6103 of the 1986 Code is amended by adding at the end the following new paragraph:

''(5) DEPARTMENT OF AGRICULTURE.—Upon request in writing by the Secretary of Agriculture, the Secretary shall furnish such returns, or return information reflected thereon, as the Secretary may prescribe by regulation to officers and employees of the Department of Agriculture whose official duties require access to such returns or information for the purpose of, but only to the extent necessary in, structuring, preparing, and conducting the census of agriculture pursuant to the Census of Agriculture Act of 1997 (Public Law 105–113).''.

(2) Paragraph (4) of section 6103(p) of the 1986 Code is amended by striking ''(j)(1) or (2)'' in the material preceding subparagraph (A) and in subparagraph (F) and inserting ''(j)(1), (2), or (5)''.

(3) The amendments made by this subsection shall apply to requests made on or after the date of the enactment of this Act.

(b) AMENDMENT RELATED TO SECTION 9004 OF TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—

(1) Paragraph (2) of section 9503(f) of the 1986 Code is amended to read as follows:

''(2) notwithstanding section 9602(b), obligations held by such Fund after September 30, 1998, shall be obligations of the United States which are not interest-bearing.''

(2) The amendment made by paragraph (1) shall take effect on October 1, 1998.

(c) AMENDMENT RELATED TO TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999.—

(1) The Treasury and General Government Appropriations Act, 1999 is amended by striking section 804 (relating to technical and clarifying amendments relating to judicial retirement program).

(2) The amendment made by paragraph (1) shall take effect as if such section 804 had never been enacted.

(d) CLERICAL AMENDMENTS.—

(1) Clause (i) of section 51(d)(6)(B) of the 1986 Code is amended by striking ''rehabilitation plan'' and inserting ''plan for employment''. The reference to ''plan for employment'' in such clause shall be treated as including a reference to the rehabilitation plan referred to in such clause as in effect before the amendment made by the preceding sentence.

(2) Paragraph (3) of section 56(a) of the 1986 Code is amended by striking ''section 460(b)(2)'' and inserting ''section 460(b)(1)'' and by striking ''section 460(b)(4)'' and inserting ''section 460(b)(3)''.

(3) Paragraph (10) of section 2031(c) of the 1986 Code is amended by striking ''section 2033A(e)(3)'' and inserting ''section 2057(e)(3)''.

(4) Subparagraphs (C) and (D) of section 6693(a)(2) of the 1986 Code are each amended by striking ''Section'' and inserting ''section''.

SEC. 406. AMENDMENTS RELATED TO URUGUAY ROUND AGREEMENTS ACT.

(a) INAPPLICABILITY OF ASSIGNMENT PROHIBITION.—Section 207 of the Social Security Act (42 U.S.C. 407) is amended by adding at the end the following new subsection:

''(c) Nothing in this section shall be construed to prohibit withholding taxes from any benefit under this title, if such withholding is done pursuant to a request made in accordance with section 3402(p)(1) of the Internal Revenue Code of 1986 by the person entitled to such benefit or such person's representative payee.''.

(b) PROPER ALLOCATION OF COSTS OF WITHHOLDING BETWEEN THE TRUST FUNDS AND THE GENERAL FUND.—Section 201(g) of such Act (42 U.S.C. 401(g)) is amended—

(1) by inserting before the period in paragraph (1)(A)(ii) the following: ''and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee'';

(2) by inserting before the period at the end of paragraph (1)(A) the following: ''and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee'';

(3) in paragraph (1)(B)(i)(I), by striking ''subparagraph (A)),'' and inserting ''subparagraph (A)) and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee,'';

(4) in paragraph (1)(C)(iii), by inserting before the period the following: ''and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee'';

(5) in paragraph (1)(D), by inserting after ''section 232'' the following: ''and the functions of the Social Security Administration in connection with the withholding of taxes from benefits as described in section 207(c)''; and

(6) in paragraph (4), by inserting after the first sentence the following: ''The Board of Trustees of such Trust Funds shall prescribe the method of determining the costs which should be borne by the general fund in the Treasury of carrying out the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee.''.

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall apply to benefits paid on or after the first day of the second month beginning after the month in which this Act is enacted.

DESCRIPTION OF PROVISIONS IN S. 2622, THE TAX RELIEF EXTENSION ACT OF 1998

(Prepared by the Staff of the Joint Committee on Taxation)

INTRODUCTION

S. 2622, the Tax (Relief) Extension Act of 1998 (''the Tax Extension Act''), was introduced by Senator WILLIAM V. ROTH, JR., Senator DANIEL PATRICK MOYNIHAN, and others on October 10, 1998.

This document,[1] prepared by the staff of the Joint Committee on Taxation, describes the proposals contained in the Tax Extension Act. Part I of this document contains the expiring provision proposals, Part II contains other proposals, Part III contains a revenue offset proposal, and Part IV contains tax technical corrections.

TITLE I. EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Tax Provisions

A. EXTENSION OF RESEARCH TAX CREDIT (SEC. 101 OF THE BILL AND SEC. 41 OF THE CODE)

Present Law

General rule

Section 41 provides for a research tax credit equal to 20 percent of the amount by which a taxpayer's qualified research expenditures for a taxable year exceeded its base amount for that year. The research tax credit expired and generally does not apply to amounts paid or incurred after June 30, 1998.

A 20-percent research tax credit also applied to the excess of (1) 100 percent of corporate cash expenditures (including grants or contributions) paid for basic research conducted by universities (and certain nonprofit scientific research organizations) over (2) the sum of (a) the greater of two minimum basic research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation. This separate credit computations is commonly referred to as the ''university basic research credit'' (see sec. 41(e)).

Computation of allowable credit

Except for certain university basic research payments made by corporations, the research tax credit applies only to the extent that the taxpayer's qualifed research expenditures for current taxable year exceed its base amount. The base amount for the current year generally is computed by multiplying the taxpayer's ''fixed-base percentage'' by the average amount of the taxpayer's gross receipts for the four preceding years. If a taxpayer both incurred qualified research expenditures and had gross receipts during each of at least three years from 1984 through 1988, then its ''fixed-base percentage'' is the ratio that its total qualified research expenditures for the 1984–1988 period bears to its total gross receipts for that period (subject to a maximum ratio of .16). All other taxpayers (so-called ''start-up firms'') are assigned a fixed-base percentage of 3 percent.[2]

In computing the credit, a taxpayer's base amount may not be less than 50 percent of its current-year qualified research expenditures.

Alternative incremental research credit regime

Taxpayers are allowed to elect an alternative incremental research credit regime. If a taxpayer elects to be subject to this alternative regime, the taxpayer is assigned a three-tiered fixed-base percentage (that is lower than the fixed-base percentage otherwise applicable under present law) and the credit rate likewise is reduced. Under the alternative credit regime, a credit rate of 1.65 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1 percent (i.e, the base amount equals 1 percent of the taxpayer's average gross receipts for the four preceding years) but do not exceed a base amount computed by using a fixed-base percentage of 1.5 percent. A credit rate of 2.2 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1.5 percent but do not exceed a base amount computed by using a fixed-base percentage of 2 percent. A credit rate of 2.75 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 2 percent. An election to be subject to this alternative incremental credit regime may be made for any taxable year beginning after June 30, 1996, and such an election applies to that taxable year and all subsequent years (in the event that the credit subsequently is extended by Congress) unless revoked with the consent of the Secretary of the Treasury.

Eligible expenditures

Qualified research expenditures eligible for the research tax credit consist of: (1) ''in-

[1] Footnotes at end of article.

house'' expenses of the taxpayer for wages and supplies attributable to qualified research; (2) certain time-sharing costs for computer use in qualified research; and (3) 65 percent of amounts paid by the taxpayer for qualified conducted on the taxpayer's behalf (so-called ''contract research expenses''). [3]

To be eligible for the credit, the research must not only satisfy the requirements of present-law section 174 but must be undertaken for the purpose of discovering information that is technological in nature, the application of which is intended to be useful in the development of a new or improved business component of the taxpayer, and must involve a process of experimentation related to functional aspects, performance, reliability, or quality of a business component.

Expenditures attributable to research that is conducted outside the United States do not enter into the credit computation. In addition, the credit is not available for research in the social sciences, arts, or humanities, nor is it available for research to the extent funded by any grant, contract, or otherwise by another person (or governmental entity).

Relation to deduction

Deductions allowed to a taxpayer under section 174 (or any other section) are reduced by an amount equal to 100 percent of the taxpayer's research tax credit determined for the taxable year. Taxpayers may alternatively elect to claim a reduced research tax credit amount under section 41 in lieu of reducing deductions otherwise allowed (sec. 280C(c)(3)).

Description of Proposal

The bill extends the research tax credit for 12 months—i.e., generally, for the period July 1, 1998, through June 30, 1999.

In extending the credit, the scope of the term ''qualified research'' is reaffirmed. Section 41 targets the credit to research which is undertaken for the purpose of discovering information which is technological in nature and the application of which is intended to be useful in the development of a new or improved business component of the taxpayer. However, eligibility for the credit does not require that the research be successful—i.e., the research need not achieve its desired result. Moreover, evolutionary research activities intended to improve functionality, performance, reliability, or quality are eligible for the credit, as are research activities intended to achieve a result that has already been achieved by other persons but is not yet within the common knowledge (e.g., freely available to the general public) of the field (provided that the research otherwise meets the requirements of section 41, including not being excluded by subsection (d)(4)).

Activities constitute a process of experimentation, as required for credit eligibility, if they involve evaluation of more than one alternative to achieve a result where the means of achieving the result are uncertain at the outset, even if the taxpayer knows at the outset that it may be technically possible to achieve the result. Thus, even though a researcher may know of a particular method of achieving an outcome, the use of the process of experimentation to effect a new or better method of achieving that outcome may be eligible for the credit (provided that the research otherwise meets the requirements of section 41, including not being excluded by subsection (d)(4)).

Lastly, the lack of clarity in the interpretation of the distinction between internal-use software, the costs of which may be eligible for the credit if additional tests are met, and other software has been observed. The application of the definition of internal-use software should fully reflect Congressional intent.

Effective Date

The extension of the research credit is effective for qualified research expenditures paid or incurred during the period July 1, 1998, through June 30, 1999.

B. EXTENSION OF THE WORK OPPORTUNITY TAX CREDIT (SEC. 102 OF THE BILL AND SEC. 51 OF THE CODE)

Present Law

In general

The work opportunity tax credit (''WOTC''), which expired on June 30, 1998, was available on an elective basis for employers hiring individuals from one or more of eight targeted groups. The credit equals 40 percent (25 percent for employment of 400 hours or less) of qualified wages. Qualified wages are wages attributable to service rendered by a member of a targeted group during the one-year period beginning with the day the individual began work for the employer. For a vocational rehabilitation referral, however, the period begins on the day the individual began work for the employer on or after the beginning of the individual's vocational rehabilitation plan.

The maximum credit per employee if $2,400 (40% of the first $6,000 of qualified first-year wages). With respect to qualified summer youth employees, the maximum credit is $1,200 (40% of the first $3,000 of qualified first-year wages).

The employer's deduction for wages is reduced by the amount of the credit

Targeted groups eligible for the credit.

The eight targeted groups are: (1) families eligible to receive benefits under the Temporary Assistance for Needy Families (TANF) Program; (2) high-risk youth; (3) qualified ex-felons; (4) vocational rehabilitation referrals; (5) qualified summer youth employees; (6) qualified veterans; (7) families receiving food stamps; and (8) persons receiving certain Supplemental Security Income (SSI) benefits.

Minimum employment period

No credit is allowed for wages paid to employees who work less than 120 hours in the first year of employment.

Expiration date

The credit is effective for wages paid or incurred to a qualified individual who began work for an employer before July 1, 1998.

Description of Proposal

The proposal extends the work opportunity tax credit, for 12 months, through June 30, 1999.

Effective Date

The proposal is effective for wages paid or incurred to a qualified individual who begins work for any employer on or after July 1, 1998, and before July 1, 1999.

C. EXTENSION OF THE WELFARE-TO-WORK TAX CREDIT (SEC. 103 OF THE BILL AND SEC. 51A OF THE CODE)

Present Law

The Code provides to employers a tax credit on the first $20,000 of eligible wages paid to qualified long-term family assistance (AFDC) or its successor program) recipients during the first two years of employment. The credit is 35 percent of the first $10,000 of eligible wages in the first year of employment and 50 percent of the first $10,000 of eligible wages in the second year of employment. The maximum credit is $8,500 per qualified employee.

Qualified long-term family assistance recipients are: (1) members of a family that has received family assistance for at least 18 consecutive months ending on the hiring date; (2) members of a family that has received family assistance for a total of at least 18 months (whether or not consecutive) after the date of enactment of this credit if they are hired within 2 years after the date that the 18-month total is reached; and (3) members of a family who are no longer eligible for family assistance because of either Federal or State time limits, if they are hired within 2 years after the Federal or State time limits made the family ineligible for family assistance.

Eligible wages include cash wages paid to an employee plus amounts paid by the employer for the following: (1) educational assistance excludable under a section 127 program (or that would be excludable but for the expiration of sec. 127); (2) health plan coverage for the employee, but not more than the applicable premium defined under section 4980B(f)(4); and (3) dependent care assistance excludable under section 129.

The welfare to work credit is effective for wages paid or incurred to a qualified individual who begins work for an employer on or after January 1, 1998, and before May 1, 1999.

Description of Proposal

The proposal extends the welfare-to-work credit effective for wages paid or incurred to a qualified individual who begins work for an employer on or after May 1, 1999, and before July 1, 1999.

Effective Date

The proposal is effective for wages paid or incurred to a qualified individual who begins work for an employer on or after May 1, 1999, and before July 1, 1999.

D. EXTEND THE DEDUCTION PROVIDED FOR CONTRIBUTIONS OF APPRECIATED STOCK TO PRIVATE FOUNDATIONS (SEC. 104 OF THE BILL AND SEC. 170(E)(5) OF THE CODE)

Present Law

In computing taxable income, a taxpayer who itemizes deductions generally is allowed to deduct the fair market value of property contributed to a charitable organization.[4] However, in the case of a charitable contribution of short-term gain, inventory, or other ordinary income property, the amount of the deduction generally is limited to the taxpayer's basis in the property. In the case of a charitable contribution of tangible personal property, the deduction is limited to the taxpayer's basis in such property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose.

In cases involving contributions to a private foundation (other than certain private operating foundations), the amount of the deduction is limited to the taxpayer's basis in the property. However, under a special rule contained in section 170(e)(5), taxpayers are allowed a deduction equal to the fair market value of ''qualified appreciated stock'' contributed to a private foundation prior to July 1, 1998. Qualified appreciated stock is defined as publicly traded stock which is capital gain property. The fair-market-value deduction for qualified appreciated stock donations applies only to the extent that total donations made by the donor to private foundations of stock in a particular corporation did not exceed 10 percent of the outstanding stock of that corporation. For this purpose, an individual is treated as making all contributions that were made by any member of the individual's family.

Description of Proposal

The proposal extends the special rule contained in section 170(e)(5) for one year—for contributions of qualified appreciated stock made to private foundations during the period July 1, 1998, through June 30, 1999.

Effective Date

The proposal is effective for contributions of qualified appreciated stock to private foundations made during the period July 1, 1998, through June 30, 1999.

E. EXCEPTIONS UNDER SUBPART F FOR CERTAIN ACTIVE FINANCING INCOME (SEC. 105 OF THE BILL AND SECS. 953 AND 954 OF THE CODE)

Present Law

In general

Under the subpart F rules, certain U.S. shareholders of a controlled foreign corporation (''CFC'') are subject to U.S. tax currently on certain income earned by the CFC, whether or not such income is distributed to the shareholders. The income subject to current inclusion under the subpart F rules includes, among other things, ''foreign personal holding company income'' and insurance income. The U.S. 10-percent shareholders of a CFC also are subject to current inclusion with respect to their shares of the CFC's foreign base company services income (i.e., income derived from services performed for a related person outside the country in which the CFC is organized).

Foreign personal holding company income generally consists of the following: (1) dividends, interest, royalties, rents and annuities; (2) net gains from the sale or exchange of (a) property that gives rise to the preceding types of income, (b) property that does not give rise to income, and (c) interests in trusts, partnerships, and REMICs; (3) net gains from commodities transactions; (4) net gains from foreign currency transactions; (5) income that is equivalent to interest; (6) income from notional principal contracts; and (7) payments in lieu of dividends.

Insurance income subject to current inclusion under the subpart F rules includes any income of a CFC attributable to the issuing or reinsuring of any insurance or annuity contract in connection with risks located in a country other than the CFC's country of organization. Subpart F insurance income also includes income attributable to an insurance contract in connection with risks located within the CFC's country of organization, as the result of an arrangement under which another corporation receives a substantially equal amount of consideration for insurance of other-country risks. Investment income of a CFC that is allocable to any insurance or annuity contract related to risks located outside the CFC's country of organization is taxable as subpart F insurance income (Prop. Treas. Reg. sec. 1.953–1(a)).

Temporary exceptions from foreign personal holding company income and foreign base company services income apply for subpart F purposes for certain income that is derived in the active conduct of a banking, financing, insurance, or similar business.[5] These exceptions (described below) are applicable only for taxable years beginning in 1998.

Income from the active conduct of a banking, financing, or similar business

A temporary exception from foreign personal holding company income applies to income that is derived in the active conduct of a banking, financing, or similar business by a CFC that is predominantly engaged in the active conduct of such business. For this purpose, income derived in the active conduct of a banking, financing, or similar business generally is determined under the principles applicable in determining financial services income for foreign tax credit limitation purposes. However, in the case of a corporation that is engaged in the active conduct of a banking or securities business, the income that is eligible for this exception is determined under the principles applicable in determining the income which is treated as nonpassive income for purposes of the passive foreign investment company provisions. In this regard, the income of a corporation engaged in the active conduct of banking or securities business that is eligible for this exception is the income that is treated as nonpassive under the regulations proposed under section 1296(b) (as in effect prior to the enactment of the Taxpayer Relief Act of 1997). See Prop. Treas. Reg. secs. 1.1296–4 and 1.1296–6. The Secretary of the Treasury is directed to prescribe regulations applying look-through treatment in characterizing for this purpose dividends, interest, income equivalent to interest, rents and royalties from related persons.

For purposes of the temporary exception, a corporation is considered to be predominantly engaged in the active conduct of banking, financing, or similar business if it is engaged in the active conduct of a banking or securities business or is a qualified bank affiliate or qualified securities affiliate. In this regard, a corporation is considered to be engaged in the active conduct of a banking or securities business if the corporation would be treated as so engaged under the regulations proposed under prior law section 1296(b) (as in effect prior to the enactment of the Taxpayer Relief Act of 1997); qualified bank affiliates and qualified securities affiliates are as determined under such proposed regulations. See Prop. Treas. Reg. secs. 1.1296–4 and 1.1296–6.

Alternatively, a corporation is considered to be engaged in the active conduct of a banking, financing, or similar business if more than 70 percent of its gross income is derived from such business from transactions with unrelated persons located within the country under the laws of which the corporation is created or organized. For this purpose, income derived by a qualified business unit (''QBU'') of a corporation from transactions with unrelated persons located in the country in which the QBU maintains its principal office and conducts substantial business activity is treated as derived by the corporation from transactions with unrelated persons located within the country in which the corporation is created or organized. A person other than a natural person is considered to be located within the country in which it maintains an office through which it engages in a trade or business and by which the transaction is effected. A natural person is treated as located within the country in which such person is physically located when such person enters into the transaction.

Income from the active conduct of an insurance business

A temporary exception from foreign personal holding company income applies for certain investment income of a qualifying insurance company with respect to risks located within the CFC's country of creation or organization. These rules differ from the rules of section 953 of the Code, which determines the subpart F inclusions of a U.S. shareholder relating to insurance income of a CFC. Such insurance income under section 953 generally is computed in accordance with the rules of subchapter L of the Code.

A temporary exception applies for income (received from a person other than a related person) from investments made by a qualifying insurance company of its reserves or 80 percent of its unearned premiums. For this purpose, in the case of contracts regulated in the country in which sold as property, casualty or health insurance contracts, unearned premiums and reserves are defined as unearned premiums and reserves for losses incurred determined using the methods and interest rates that would be used if the qualifying insurance company were subject to tax under subchapter L of the Code. Thus, for this purposed, unearned premiums are determined in accordance with section 832(b)(4), and reserves for losses incurred are determined in accordance with section 832(b)(5) and 846 of the Code (as well as any other rules applicable to a U.S. property and casualty insurance company with respect to such amounts).

In the case of a contract regulated in the country in which sold as a life insurance or annuity contract, the following three alternative rules for determining reserves apply. Any one of the three rules can be elected with respect to a particular line of business.

First, reserves for such contracts can be determined generally under the rules applicable to domestic life insurance companies under subchapter L of the Code, using the methods there specified, but substituting for the interest rates in Code section 807(d)(2)(B) an interest rate determined for the country in which the qualifying insurance company was created or organized, calculated in the same manner as the mid-term applicable Federal interest rate (''AFR'') (within the meaning of section 1274(d)).

Second, the reserves for such contracts can be determined using a preliminary term foreign reserve method, except that the interest rate to be used is the interest rate determined for the country in which the qualifying insurance company was created or organized, calculated in the same manner as the mid-term AFR. If a qualifying insurance company uses such a preliminary term method with respect to contracts insuring risks located in the country in which the company is created or organized, then such method is the method that applies for purposes of this election.

Third, reserves for such contracts can be determined to be equal to the net surrender value of the contract (as defined in section 807(e)(1)(A).

In no event can the reserve for any contract at any time exceed the foreign statement reserve for the contract, reduced by any catastrophe or deficiency reserve. This rule applies whether the contract is regulated as a property, casualty, health, life insurance, annuity or any other type of contract.

A temporary exception from foreign personal holding company income also applies for income from investment of assets equal to: (1) one-third of premiums earned during the taxable year on insurance contracts regulated in the country in which sold as property, casualty, or health insurance contracts; and (2) the greater of 10 percent of reserves, or, in the case of qualifying insurance company that is a startup company, $10 million. For this purpose, a startup company is a company (including any predecessor) that has not been engaged in the active conduct of an insurance business for more than 5 years. In general, the 5-year period commences when the foreign company first is engaged in the active conduct of an insurance business. If the foreign company was formed before being acquired by the U.S. shareholder, the 5-year period commences when the acquired company first was engaged in the active conduct of an insurance business. In the event of the acquisition of a book of business from another company through an assumption or indemnity reinsurance transaction, the 5-year period commences when the acquiring company first engaged in the active conduct of an insurance business, except that if more than a substantial part (e.g., 80 percent) of the business of the ceding company is acquired, then the 5-year period commences when the ceding company first engaged in the active conduct of an insurance business. Reinsurance transactions among related persons may not be used to multiply the number of 5-year periods.

Under rules prescribed by the Secretary, income is allocated to contracts as follows.

In the case of contracts that are separate account-type contracts (including variable contracts not meeting the requirements of sec. 817), only the income specifically allocable to such contracts are taken into account. In the case of other contracts, income not specifically allocable is allocated ratably among such contracts.

A qualifying insurance company is defined as any entity which: (1) is regulated as an insurance company under the laws of the country in which it is incorporated; (2) derived at least 50 percent of its net written premiums from the insurance or reinsurance of risks situated within its country of incorporation; and (3) is engaged in the active conduct of an insurance business and would be subject to tax under subchapter L if it were a domestic corporation.

The temporary exceptions do not apply to investment income (includable in the income of a U.S. shareholder of a CFC pursuant to sec. 953) allocable to contracts that insure related party risks or risks located in a country other than the country in which the qualifying insurance company is created or organized.

Anti-abuse rule

An anti-abuse rule applies for purposes of these temporary exceptions. For purposes of applying these exceptions, items with respect to a transaction or series of transactions are disregarded if one of the principal purposes of the transaction or transactions is to qualify income or gain for these exceptions, including any change in the method of computing reserves or any other transaction or transactions one of the principal purposes of which is the acceleration or deferral of any item in order to claim the benefits of these exceptions.

Foreign base company services income

A temporary exception from foreign base company services income applies for income derived from services performed in connection with the active conduct of a banking, financing, insurance or similar business by a CFC that is predominantly engaged in the active conduct of such business or is a qualifying insurance company.

Description of Proposal

The proposal extends for one year the present-law temporary exceptions from foreign personal holding company income and foreign base company services income for income that is derived in the active conduct of a banking, financing, insurance or similar business.

Effective Date

The proposal applies only to the first full taxable year of a foreign corporation beginning in 1998 and to the taxable year of such corporation immediately following such first full taxable year, and to taxable years of U.S. shareholders with or within which such taxable years of such foreign corporation end. If a foreign corporation does not have such a first full taxable year beginning in 1998, the proposal applies only to the first taxable year of the foreign corporation beginning in 1999, and to taxable years of U.S. shareholders with or within which such taxable year of such foreign corporation ends.

F. EXTEND PLACED IN SERVICE DATE FOR CERTAIN NONCONVENTIONAL FUELS FACILITIES (SEC. 106 OF THE BILL AND SEC. 29 OF THE CODE)

Present Law

Under present law, certain fuels produced from ''nonconventional sources'' and sold to unrelated parties are eligible for an inflation-adjusted income tax credit (equal to $6.10 in 1997) per barrel of oil or British Thermal Unit barrel oil equivalent. The credit is available for qualified fuels produced through December 31, 2007, by coal or biomass facilities placed in service before July 1, 1998, pursuant to a binding written contract in effect before January 1, 1997.

Description of Proposal

The proposal extends the placed in service date, but not the binding contract date, for facilities producing nonconventional fuels from coal and biomass through June 30, 1999.

Effective Date

This proposal is effective on the date of enactment (i.e., applies to facilities placed in service after June 30, 1998 and before July 1, 1999).

G. DISCLOSURE OF RETURN INFORMATION TO DEPARTMENT OF EDUCATION IN CONNECTION WITH INCOME CONTINGENT LOANS (SEC. 107 OF THE BILL AND SEC. 6103(l)(13) OF THE CODE)

Present Law

Under section 6103(l)(13) of the Code, the Secretary of the Treasury was authorized to disclose to the Department of Education certain return information with respect to any taxpayer who has received an ''applicable student loan.'' An ''applicable student loan'' is any loan made under (1) part D of title IV of the Higher Education Act of 1965 or (2) parts B or E of title IV of the Higher Education Act of 1965 which is in default and has been assigned to the Department of Education, if the loan repayment amounts are based in whole or in part on the taxpayer's income. The Secretary is permitted to disclose only taxpayer identity information and the adjusted gross income of the taxpayer. The Department of Education may use the information only to establish the appropriate income contingent repayment amount for an applicable student loan.

The disclosure authority under section 6103(l)(13) terminated with respect to requests made after September 30, 1998.

Description of Proposal

The provision reinstates the disclosure authority under section 6103(l)(13) with respect to requests made after the date of enactment and before October 1, 2004.

Effective Date

The disclosure authority under section 6103(l)(13) applies to requests made after the date of enactment and before October 1, 2004.

Subtitle B—Trade Provisions

A. EXTENSION OF THE GENERALIZED SYSTEM OF PREFERENCES (SEC. 111 OF THE BILL AND SEC. 505 OF THE TRADE ACT OF 1974)

Present Law

Title V of the Trade Act of 1974, as amended, grants authority to the President to provide duty-free treatment on imports of certain articles from beneficiary developing countries subject to certain conditions and limitations. To qualify for GSP privileges, each beneficiary country is subject to various mandatory and discretionary eligible criteria. Import sensitive products are ineligible for GSP. The GSP program, which is designed to promote development through trade rather than traditional aid programs, expired after June 30, 1998.

Description of Proposal

The proposal reauthorizes the GSP program to terminate after December 31, 1999. Refunds are authorized, upon request of the importer, for duties paid between July 1, 1998, and the date of enactment of the bill.

Effective Date

The proposed is effective for duties paid on or after July 1, 1998, and before December 31, 1999.

B. EXTENSION OF THE TRADE ADJUSTMENT ASSISTANCE PROGRAM (SEC. 112 OF THE BILL AND SEC. 245 OF THE TRADE ACT OF 1974)

Present Law

Title II of the Trade Act of 1974, as amended, authorizes three trade adjustment assistance (TAA) programs for the purpose of providing assistance to individual workers and firms that are adversely affected by the reduction of barriers to foreign trade. Those programs include—

(1) The general TAA program for workers provides training and income support for workers adversely affected by import competition.

(2) The TAA program for firms provides technical assistance by qualifying firms.

(3) The third program, the North American Free Trade Agreement (''NAFTA'') program for workers (established by the North American Free Trade Agreement Implementation Act of 1993) provides training and income support for workers adversely affected by trade with or production shifts to Canada and/or Mexico.

All three TAA programs expired on September 30, 1998. The TAA program for firms is also subject to annual appropriations.

Description of Proposal

The proposal reauthorizes each of the three TAA programs through June 30, 1999.

Effective Date

The proposal is effective on the date of enactment.

TITLE II. OTHER TAX PROVISIONS

A. INCREASE DEDUCTION FOR HEALTH INSURANCE EXPENSES OF SELF-EMPLOYED INDIVIDUALS (SEC. 201 OF THE BILL AND SEC. 162(L) OF THE CODE)

Present Law

Under present law, self-employed individuals are entitled to deduct a portion of the amount paid for health insurance for the self-employed individual and the individual's spouse and dependents. The deduction for health insurance expenses of self-employed individuals is not available for any month in which the taxpayer is eligible to participate in a subsidized health plan maintained by the employer of the taxpayer or the taxpayer's spouse. The deduction is available in the case of self insurance as well as commercial insurance. The self-insured plan must in fact be insurance (e.g., there must be appropriate risk shifting) and not merely a reimbursement arrangement.

The portion of health insurance expenses of self-employed individuals that is deductible is 45 percent for taxable years beginning in 1998 and 1999, 50 percent for taxable years beginning in 2000 and 2001, 60 percent for taxable years beginning in 2002, 80 percent for taxable years beginning in 2003, 2004, and 2005, 90 percent for taxable years beginning in 2006, and 100 percent for taxable years beginning in 2007 and thereafter.

Under present law, employees can exclude from income 100 percent of employer-provided health insurance.

Description of Proposal

The proposal increases the deduction for health insurance of self-employed individuals to 70 percent for taxable years beginning in 2001 and to 100 percent for taxable years beginning in 2002 and thereafter.

Effective Date

The proposal is effective for taxable years beginning after December 31, 2000.

B. FARM PRODUCTION FLEXIBILITY CONTRACT PAYMENTS (SEC. 202 OF THE BILL)

Present Law

A taxpayer generally is required to include an item in income no later than the time of its actual or constructive receipt, unless such amount properly is accounted for in a different period under the taxpayer's method of accounting. If a taxpayer has an unrestricted right to demand the payment of an amount, the taxpayer is in constructive receipt of that amount whether or not the taxpayer makes the demand and actually receives the payment.

The Federal Agriculture Improvement and Reform Act of 1996 (the ''FAIR Act'') provides for production flexibility contracts between certain eligible owners and producers and the Secretary of Agriculture. These contracts generally cover crop years from 1996 through 2002. Annual payments are made under such contracts at specific times during the Federal government's fiscal year. Section 112(d)(2) of the FAIR Act provides that one-half of each annual payment is to be made on either December 15 or January 15 of the fiscal year, at the option of the recipient.[6] This option to receive the payment on December 15 potentially results in the constructive receipt (and thus potential inclusion in income) of one-half of the annual payment at that time, even if the option to receive the amount on January 15 is elected.

The remaining one-half of the annual payment must be made no later than September 30 of the fiscal year. The Emergency Farm Financial Relief Act of 1998 added section 112(d)(3) to the FAIR Act which provides that all payments for fiscal year 1999 are to be paid at such time or times during fiscal year 1999 as the recipient may specify. Thus, the one-half of the annual amount that would otherwise be required to be paid no later than September 30, 1999 can be specified for payment in calendar year 1998. This potentially results in the constructive receipt (and thus required inclusion in taxable income) of such amounts in calendar year 1998, whether or not the amounts actually are received or the right to their receipt is fixed.

Description of Proposal

The time a production flexibility contract payment under the FAIR Act properly is includable in income is determined without regard to the options granted by section 112(d)(2) (allowing receipt of one-half of the annual payment on either December 15 or January 15 of the fiscal year) or section 112(d)(3) (allowing the acceleration of all payments for fiscal year 1999) of that Act.

Effective Date

The proposal is effective for production flexibility contract payments made under the FAIR Act in taxable years ending after December 31, 1995.

C. PERMANENT EXTENSION OF INCOME AVERAGING FOR FARMERS (SEC. 203 OF THE BILL AND SEC. 1301 OF THE CODE)

Present Law

An individual engaged in a farming business may elect to compute his or her current year tax liability by averaging, over the prior three-year period, all or a portion of the taxable income that is attributable to the farming business.

In general, an individual who makes the election (1) designates all or a portion of his or her taxable income attributable to any farming business from the current year as ''elected farm income;''[7] (2) allocates one-third of the elected farm income to each of the three prior taxable years; and (3) determines the current year section 1 tax liability by combining (a) his or her current year section 1 tax liability excluding the elected farm income allocated to the three prior taxable years, plus (b) the increases in the section 1 tax liability for each of the three prior taxable years caused by including one-third of the elected farm income in each such year. Any allocation of elected farm income pursuant to the election applies for purposes of any election in a subsequent taxable year.

The provision does not apply for employment tax purposes, or to an estate or a trust. The provision also does not apply for purposes of the alternative minimum tax. The provision is effective for taxable years beginning after December 31, 1997, and before January 1, 2001.

Description of Proposal

The proposal permanently extends the income averaging provision for farmers.

Effective Date

The proposal is effective for taxable years beginning after December 31, 2000.

D. PERSONAL CREDITS FULLY ALLOWED AGAINST REGULAR TAX LIABILITY DURING 1998 (SEC. 204 OF THE BILL AND SEC. 26 OF THE CODE)

Present law provides for certain nonrefundable personal tax credits (i.e., the dependent care credit, the credit for the elderly and disabled, the adoption credit, the child tax credit, the credit for interest on certain home mortgages, the HOPE Scholarship and Lifetime Learning credits, and the D.C. homebuyer's credit). Generally, these credits are allowed only to the extent that the individual's regular income tax liability exceeds the individual's tentative minimum tax (determined without regard to the AMT foreign tax credit).

The tentative minimum tax is an amount equal to (1) 26 percent of the first $175,000 ($87,500 in the case of a married individual filing a separate return) of alternative minimum taxable income (''AMTI'') in excess of a phased-out exemption amount and (2) 28 percent of the remaining AMTI. The maximum tax rates on net capital gain used in computing the tentative minimum tax are the same as under the regular tax. AMTI is the individual's taxable income adjusted to take account of specified preferences and adjustments. The exemption amounts are: (1) $45,000 in the case of married individuals filing a joint return and surviving spouses; (2) $33,750 in the case of other unmarried individuals; and (3) $22,500 in the case of married individuals filing a separate return, estates and trusts. The exemption amounts are phased out by an amount equal to 25 percent of the amount by which the individual's AMTI exceeds (1) $150,000 in the case of married individuals filing a joint return and surviving spouses, (2) $112,500 in the case of other unmarried individuals, and (3) $75,000 in the case of married individuals filing separate returns or an estate or a trust. These amounts are not indexed for inflation.

For families with three or more qualifying children, an additional child credit is provided which may offset the liability for social security taxes to the extent that tax liability exceeds the amount of the earned income credit. The additional child credit is reduced by the amount of the individual's minimum tax liability (i.e., the amount by which the tentative minimum tax exceeds the regular tax liability).

Description of Proposal

The proposal allows the nonrefundable personal credits to offset the individual's regular tax in full for taxable years beginning in 1998 (as opposed to only the amount by which the regular tax exceeds the tentative minimum tax, as under present law).

The provision of present law that reduces the additional child credit by the amount of an individual's AMT will not apply for taxable years beginning in 1998.

Effective Date

The proposal is effective for taxable years beginning in 1998.

TITLE III. REVENUE OFFSET PROVISION

A. TREATMENT OF CERTAIN DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS (SEC. 301 OF THE BILL AND SECS. 332 AND 334 OF THE CODE)

Present Law

Regulated investment companies (''RICs'') and real estate investment trusts (''REITs'') are allowed a deduction for dividends paid to their shareholders. The deduction for dividends paid includes amounts distributed in liquidation which are properly chargeable to earnings and profits, as well as, in the case of a complete liquidation occurring within 24 months after the adoption of a plan of complete liquidation, any distribution made pursuant to such plan to the extent of earnings and profits. Rules that govern the receipt of dividends from RICs and REITs generally provide for including the amount of the dividend in the income of the shareholder receiving the dividend that was deducted by the RIC or REIT. Generally, any shareholder realizing gain from a liquidating distribution of a RIC or REIT includes the amount of gain in the shareholder's income. However, in the case of a liquidating distribution to a corporation owning 80-percent of the stock of the distributing corporation, a separate rule generally provides that the distribution is tax-free to the parent corporation. The parent corporation succeeds to the tax attributes, including the adjusted basis of assets, of the distributing corporation. Under these rules, a liquidating RIC or REIT might be allowed a deduction for amounts paid to its parent corporation, without a corresponding inclusion in the income of the parent corporation, resulting in income being subject to no tax.

A RIC or REIT may designate a portion of a dividend as a capital gain dividend to the extent the RIC or REIT itself has a net capital gain, and a RIC may designate a portion of the dividend paid to a corporate shareholder as eligible for the 70-percent dividends-received deduction to the extent the RIC itself received dividends from other corporations. If certain conditions are satisfied, a RIC also is permitted to pass through to its shareholders the tax-exempt character of the RIC's net income from tax-exempt obligations through the payment of ''exempt interest dividends,'' though no deduction is allowed for such dividends.

Description of Proposal

Any amount which a liquidating RIC or REIT may take as a deduction for dividends paid with respect to an otherwise tax-free liquidating distribution to an 80-percent corporate owner is includible in the income of the recipient corporation. The includible amount is treated as a dividend received from the RIC or REIT. The liquidating corporation may designate the amount distributed as a capital gain dividend or, in the case of a RIC, a dividend eligible for the 70-percent dividends received deduction or an exempt interest dividend, to the extent provided by the RIC or REIT provisions of the Code.

The provision does not otherwise change the tax treatment of the distribution to the parent corporation or to the RIC or REIT. Thus, for example, the liquidating corporation will not recognize gain (if any) on the liquidating distribution and the recipient corporation will hold the assets at a carryover basis, even where the amount received is treated as a dividend.

Effective Date

The provision is effective for distributions on or after May 22, 1998, regardless of when the plan of liquidation was adopted.

No inference is intended regarding the treatment of such transactions under present law.

TITLE IV. TAX TECHNICAL CORRECTIONS

Except as otherwise provided, the technical corrections contained in the bill generally are effective as if included in the originally enacted related legislation.

A. TECHNICAL CORRECTIONS TO THE 1998 ACT

1. Burden of proof (sec. 402(b) of the bill, sec. 3001 of the 1998 Act, and sec. 7491(a)(2)(C) of the Code)

Present Law

The Treasury Secretary has the burden of proof in any court proceeding with respect to a factual issue if the taxpayer introduces credible evidence with respect to any factual issue relevant to ascertaining the taxpayer's tax liability, provided specified conditions are satisfied (sec. 7491). One of these conditions if that corporations, trust, and partnerships must meet certain net worth limitations. These net worth limitations do not apply to individuals or to estates.

Description of Proposal

The proposal removes that net worth limitation from certain revocable trusts for the same period of time that the trust would have been treated as part of the estate had the trust made the election under section 645 to be treated as part of the estate.

2. Relief for innocent spouses (sec. 402(c) of the bill, sec. 3201 of the 1998 Act, and secs. 6015(e) and 7421(a) of the Code)

Present Law

A taxpayer who is no longer married to, is separated from, or has been living apart for at least 12 months from the person with whom he or she originally joined in filing a joint Federal income tax return may elect to limit his or her liability for a deficiency arising from such joint return to the amount of the deficiency that is attributable to items that are allocable to such electing spouse. The election is limited to deficiency situations and only affects the amount of the deficiency for which the electing spouse is liable. Thus, the election cannot be used to generate a refund, to direct a refund to one spouse or the other, or to allocate responsibility for payment where a balance due is reported on, but not paid with, a joint return.

In addition to the election to limit the liability for deficiencies, a taxpayer may be eligible for innocent spouse relief. Innocent spouse relief allows certain taxpayers who joined in the filing of a joint return to be relieved of liability for an understatement of tax that is attributable to items of the other spouse to the extent that the taxpayer did not know or have reason to know of the understatement. The Secretary is also authorized to provide equitable relief in situations where, taking into account all of the facts and circumstances, it is inequitable to hold an individual responsible for all or part of any unpaid tax or deficiency arising from a joint return. Under certain circumstances, it is possible that a refund could be obtained under this authority.

Description of Proposal

The proposal clarifies that the ability to obtain a credit or refund of Federal income tax is limited to situations where the taxpayer qualifies for innocent spouse relief or where the Secretary exercises his authority to provide equitable relief.

3. Interest netting (sec. 402(d) of the bill and sec. 3301(c)(2) of the 1998 Act)

Present Law

Fro calendar quarters beginning after July 22, 1998, a net interest rate of zero applies where interest is payable and allowable on equivalent amounts of overpayment and underpayment of any tax imposed by the Internet Revenue Code. In addition, the net interest rate of zero applies to periods on or before July 22, 1998, providing (1) the statute of limitations has not expired with respect to either the underpayment or overpayment, (2) the taxpayer identifies the periods of underpayment and overpayment where interest is payable and allowable for which the net interest rate of zero would apply, and (3) on or before December 31, 1999, the taxpayer asks the Secretary to apply the net zero rate.

Description of Proposal

The proposal restores language originally included in the Senate amendment that clarifies that the applicability of the zero net interest rate for periods on or before July 22, 1998 is subject to any applicable statute of limitations not having expired with regard to either a tax underpayment or overpayment.

4. Effective date for elimination of 18-month holding period for capital gains (sec. 402(i) of the bill, sec. 5001 of the 1998 Act, and sec. 1(h) of the Code)

Present Law

The 1998 Act repealed the provision in the 1997 Act providing a maximum 28-percent rate for the long-term capital gain attributable to property held more than one year but not more than 18 months. Instead, the 1998 Act treated this gain in the same manner as gain from property held more than 18 months. The provision in the 1998 Act is effective for amounts properly taken into account after December 31, 1997. For gains taken into account by a pass-thru entity, such as a partnership, S corporation, trust, estate, RCI or REIT, the date that the entity properly took the gain into account is the appropriate date in applying this provision. Thus, for example, amounts properly taken into account by a pass-thru entity after July 28, 1997, and before January 1, 1998, with respect to property held more than one year but not more than 18 months which are included in income on an individual's 1998 return are taken into account in computing 28-percent rate gain.

Description of Proposal

Under the proposal, in the case of a capital gain dividend made by a RIC or REIT after 1997, no amount will be taken into account in computing the net gain or loss in the 28-percent rate gain category by reason of property being held more than one year but not more than 18 months, other than amounts taken into account by the RIC or REIT from other pass-thru entities (other than in structures, such as a ''master-feeder structure'', in which the RIC invests a substantial portion of its assets in one or more partnerships holding portfolio securities and having the same taxable year as the RIC). A similar rule applies to amounts properly taken into account by a RIC or REIT by reason of holding, directly or indirectly, an interest in another RIC or REIT to which the rule in the preceding sentence applies.

For example, if a RIC sold stock held more than one year but not more than 18 months on November 15, 1997, for a gain, and makes a capital gain dividend in 1998, the gain is not taken into account in computing 28-percent rate gain for purposes of determining the taxation of the 1998 dividend. (Thus, all the netting and computations made by the RIC need to be redone with respect to all post-1997 capital gain dividends, whether or not dividends of 28-percent rate gain.) If, however, the gain was taken into account by a RIC by reason of holding an interest in a calendar year 1997 partnership which itself sold the stock, the gain will not be recharacterized by reason of this proposal (unless the RIC's investment in the partnership satisfies the exception for master-feeder structures). If the gain was taken into account by a RIC by reason of holding an interest in a REIT and the gain was excluded from 28-percent rate gain by reason of the application of this proposal to the REIT, the gain will be excluded from 28-percent rate gain in determining the tax of the RIC shareholders.

The proposal also corrects a cross reference.

B. TECHNICAL CORRECTIONS TO THE 1997 ACT

1. Treatment of interest on qualified education loans (sec. 403(a) of the bill, sec. 202 of the 1997 Act, and secs. 221 and 163(h) of the Code)

Present Law

Present law, as modified by the 1997 Act, provides that certain individuals who have paid interest on qualified education loans may claim an above-the-line deduction for such interest expense, up to a maximum dollar amount per year ($1,000 for taxable years beginning in 1998), subject to certain requirements (sec. 221). The maximum deduction is phased out ratably for individual taxpayers with modified AGI between $40,000 and $55,000 ($60,000 and $75,000 for joint returns). Present law also provides that in the case of a taxpayer other than a corporation, no deduction is allowed for personal interest (sec. 163(h)). For this purpose, personal interest means any interest allowable as a deduction, other than certain types of interest listed in the statute. This proposal does not specifically provide that otherwise deductible qualified education loan interest is not treated as personal interest.

Present law provides that a qualified education loan does not include any indebtedness owed to a person who is related (within the meaning of sec. 267(b) or 707(b)) to the taxpayer (sec. 221(e)(1)).

Description of Proposal

The proposal clarifies that otherwise deductible qualified education loan interest is not treated as nondeductible personal interest.

The proposal also clarifies that, for purposes of section 221, modified AGI is determined after application of section 135 (relating to income from certain U.S. savings bonds) and section 137 (relating to adoption assistance programs).

The proposal also provides that a qualified education loan does not include any indebtedness owed to any person by reason of a loan under any qualified employer plan (as defined in section 72(p)(4)) or under any contract purchased under a qualified employer plan (as described in sec. 72(p)(5)).

2. Capital gain distributions of charitable remainder trusts (secs. 402(i)(3) and 403(b) of the bill, sec. 311 of the 1997 Act and sec. 5001 of the 1998 Act, and sec. 1(h) of the Code)

Present Law

Under present law, the income beneficiary of a charitable remainder trust (''CRT'') includes the trust's capital gain in income when the gains are distributed to the beneficiary (sec. 664(b)(2)). Internal Revenue Service Notice 98–20 provides guidance with respect to the categorization of long-term gain distributions from a CRT under the capital gain rules enacted by the 1997 Act. Under the Notice, long-term capital gains properly taken into account by the trust before January 1, 1997, are treated as falling in the 20-percent group of gain (i.e., gain not in the 28-percent rate gain or unrecaptured sec. 1250 gain). Long-term capital gains properly taken into account by the trust after December 31, 1996, and before May 7, 1997, are included in 28-percent rate gain. Long-term capital gains properly taken into account by the trust after May 6, 1997, are treated as falling into the category which would apply if the trust itself were subject to tax.

Description of Proposal

The proposal provides that, in the case of a capital gain distribution by a CRT after December 31, 1997, with respect to amounts properly taken into account by the trust during 1997, amounts will not be included in the 28-percent rate gain category solely by reason of being properly taken into account by the trust before May 7, 1997, or by reason of the property being held not more than 18 months. Thus, for example, gain on the sale of stock by a CRT on February 1, 1997, will not be taken into account in determining 28-percent rate gain where the gain is distributed after 1997.[8]

Effective Date

The proposal applies to taxable years beginning after December 31, 1997.

3. Gifts may not be revalued for estate tax purposes after expiration of statute of limitations (sec. 403(c) of the bill, sec. 504 of the 1997 Act, and sec. 2001(f)(2) of the Code)

Present Law

Basic structure of Federal estate and gift taxes.—The Federal estate and gift taxes are unified so that a single progressive rate schedule is applied to an individual's cumulative gifts and bequests. The tax on gifts made in a particular year is computed by determining the tax on the sum of the taxable gifts made in that year and in all prior years and then subtracting the tax on the prior years taxable gifts and the unified credit. Similarly, the estate tax is computed by determining the tax on the sum of the taxable estate and prior taxable gifts and then subtracting the tax on taxable gifts, the unified credit, and certain other credits.

This structure raises two different, but related, issues: (1) what is the period beyond which additional gift taxes cannot be assessed or collected—generically referred to as the ''period of limitations''—and (2) what is the period beyond which the amount of prior transfers cannot be revalued for the purpose of determining the amount of tax on subsequent transfers.

Gift and estate tax period of limitations.—Section 6501(a) provides the general rule that any tax (including gift and estate tax) must be assessed, or a proceeding begun in a court for the collection of such tax without assessment, within three years after the return is filed by the taxpayer. Under section 6501(e)(2), the period for assessments of gift or estate tax is increased to six years where there is more than a 25 percent omission in the amount of the total gifts or gross estate disclosed on the gift or estate tax return. Section 6501(c)(9) provides an exception to these rules under which gift tax may be assessed, or a proceeding in a court for collection of gift tax may be begun, at any time unless the gift is disclosed on a gift tax return or a statement attached to a gift tax return.

Revaluation of gifts for estate tax purposes.—The value of a gift is its value as finally determined under the rules for purposes of determining the applicable estate tax bracket and available unified credit. The value of a gift is finally determined if (1) the value of the gift is shown on a gift tax return for that gift and that value is not contested by the Treasury Secretary before the expiration of the period of limitations on assessment of gift tax even where the value of the gift as shown on the return does not result in any gift tax being owned (e.g., through use of the unified credit), (2) the value is specified by the Treasury Secretary pursuant to a final notice of redetermination of value (a ''final notice'') within the period of limitations applicable to the gift for gift tax purposes (generally, three years) and the taxpayer does not timely contest that value, or (3) the value is determined by a court or pursuant of a settlement agreement between the taxpayer and the Treasury Secretary under an administrative appeals process whereby a taxpayer can challenge a redetermination of value by the IRS prior to issuance of a final notice. In the event the taxpayer and the IRS cannot agree on the value of a gift, the 1997 Act provided the U.S. Tax Court with jurisdiction to issue a declaratory judgment on the value of a gift (section 7477). A taxpayer who is mailed a final notice may challenge the redetermined value of the gift (as contained in the final notice) by filing a motion for a declaratory judgment with the U.S. Tax Court. The motion must be filed on or before 90 days from the date that the final notice was mailed. The statute of limitations is tolled during the pendency of the Tax Court proceeding.

Revaluation of gifts for gift tax purposes.—Similarly, under a rule applicable to the computation of the gift tax (sec. 2504(c)), the value of gifts made in prior years is its value as finally determined if the period of limitations for assessment of gift tax on the prior gifts has expired.

Description of Proposal

The bill clarifies the rules relating to revaluations of prior transfers for computation of the estate or gift tax to provide that the value of a prior transfer cannot be redetermined after the period of limitations if the transfer was disclosed in a statement attached to the gift tax return, as well as on a gift tax return, in a manner to adequately apprise the Treasury Secretary of the nature the transfer, even if there was no gift tax imposed on that transfer.

4. Coordinate Vaccine Injury Compensation Trust Fund expenditure purposes with list of taxable vaccines (sec. 403(d) of the bill, sec. 904 of the 1997 Act, and sec. 9510(c) of the Code)

Present Law

A manufacturer's excise tax is imposed on certain vaccines routinely recommended for administration to children (sec. 4131). The tax is imposed at a rate of $0.75 per dose on any listed vaccine component. Taxable vaccine components are vaccines against diphtheria, tetanus, pertussis, measles, mumps, rubella, polio, HIB (haemophilus influenza type B), hepatitis B, and varicella (chicken pox). Tax was imposed on vaccines against diphtheria, tetanus, pertussis, measles, mumps, rubella, and polio by the Omnibus Budget Reconciliation Act of 1987. Tax was imposed on vaccines against HIB, hepatitis B, and varicella by the 1997 Act.

Amounts equal to net revenues from this excise tax are deposited in the Vaccine Injury Compensation Trust Fund (''Vaccine Trust Fund'') to finance compensation awards under the Federal Vaccine Injury Compensation Program for individuals who suffer certain injuries following administration of the taxable vaccines. Present law provides that payments from the Vaccine Trust Fund may be made only for vaccines eligible under the program as of December 22, 1987 (sec. 9510(c)(1)). Thus, payments may not be made for injuries related to the HIB, hepatitis B or varicella vaccines.

Description of Proposal

The proposal provides that payments are permitted from the Vaccine Trust Fund for injuries related to the administration of the HIB, hepatitis B, and varicella vaccines. The proposal also clarifies that expenditures from the Vaccine Trust Fund may occur only as provided in the Code and makes conforming amendments.

5. Abatement of interest by reason of Presidentially declared disaster (sec. 403(e) of the bill, sec. 915 of the 1997 Act, and sec. 6404(h) of the Code)

Present Law

The Taxpayer Relief Act of 1997 (''1997 Act'') provided that, if the Secretary of the Treasury extends the filing date of an individual tax return for 1997 for individuals living in an area that has been declared a disaster area by the President during 1997, no interest shall be charged as a result of the failure of an individual taxpayer to file an individual tax return, or pay the taxes shown on such return, during the extension.

The Internal Revenue Service Restructuring and Reform Act of 1998 (''1998 Act'') contains a similar rule applicable to all taxpayers for tax years beginning after 1997 for disasters declared after 1997. The status of disasters declared in 1998 but that relate to the 1997 tax year is unclear.

Description of Proposal

The proposal amends the 1997 Act rule so that it is available for disasters declared in 1997 or in 1998 with respect to the 1997 tax year.

6. Treatment of certain corporate distributions (sec. 403(f) of the bill, sec. 1012 of the 1997 Act, and secs. 351(c) and 368(a)(2)(H) of the Code)

Present Law

The 1997 Act (sec. 1012(a)) requires a distributing corporation to recognize corporate level gain on the distribution of stock of a controlled corporation under section 355 of the Code if, pursuant to a plan or series of related transactions, one or more persons acquire a 50-percent or greater interest (defined as 50 percent or more of the voting power or value of the stock) of either the distributing or controlled corporation (Code sec. 355(e)). Certain transactions are excepted from the definition of acquisition for this purpose. Under the technical corrections included in the Internal Revenue Service Restructuring and Reform Act of 1998, in the case of acquisitions under section 355(e)(3)(A)(iv), the acquisition of stock in the distributing corporation or any controlled corporation is disregarded to the extent that the percentage of stock owned directly or indirectly in such corporation by each person owning stock in such corporation immediately before the acquisition does not decrease.[9]

In the case of a 50-percent or more acquisition of either the distributing corporation or the controlled corporation, the amount of gain recognized is the amount that the distributing corporation would have recognized had the stock of the controlled corporation been sold for fair market value on the date of the distribution. No adjustment to the basis of the stock or assets of either corporation is allowed by reason of the recognition of the gain.[10]

The 1997 Act (as amended by the technical corrections contained in the Internal Revenue Service Restructuring and Reform Act of 1998) also modified certain rules for determining control immediately after a distribution in the case of certain divisive transactions in which a controlled corporation is distributed and the transaction meets the requirements of section 355. In such cases, under section 351 and modified section 368(a)(2)(H) with respect to reorganizations under section 368(a)(1)(D), the fact that the shareholders of the distributing corporation dispose of part or all of the distributed stock shall not be taken into account.

The effective date (Act section 1012(d)(1)) states that the relevant provisions of the 1997 Act apply to distributions after April 16, 1997, pursuant to a plan (or series of related transactions) which involves an acquisition occurring after such date (unless certain transition provisions apply).

Description of Proposal

The proposal clarifies the ''control immediately after'' requirement of section 351(c) and section 368(a)(2)(H) in the case of certain divisive transactions in which a corporation contributes assets to a controlled corporation and then distributes the stock of the controlled corporation in a transaction that meets the requirements of section 355 (or so much of section 356 as related to section 355). In such cases, not only the fact that the shareholders of the distributing corporation dispose of part or all of the distributed stock, but also the fact that the corporation whose stock was distributed issues additional stock, shall not be taken into account.

7. Treatment of affiliated group including formerly tax-exempt organization (sec. 403(g) of the bill and sec. 1042 of the 1997 Act)

Present Law

Present law provides that an organization described in sections 501(c) (3) or (4) of the Code is exempt from tax only if no substantial part of its activities consists of providing commercial-type insurance. When this rule was enacted in 1986, certain treatment applied to Blue Cross and Blue Shield organizations providing health insurance that were submitted to this rule and that met certain requirements. Treasury regulations were promulgated providing rules for filing consolidated returns for affiliated groups including such organizations (Treas. Reg. sec. 1.1502–75(d)(5)).

The 1997 act repealed the grandfather rules provided in 1986 (permitting the retention of tax-exempt status) that were applicable to that portion of the business of the Teachers Insurance Annuity Association and College Retirement Equities Fund which is attributable to pension business and to the portion of the business of Mutual of America which is attributable to pension business. The 1997 Act did not specifically provide rules for filing consolidated returns for affiliated groups including such organizations.

Present law with respect to consolidated returns provides for an election to treat a life insurance company as an includable corporation, and also provides that a life insurance company may not be treated as an includable corporation for the 5 taxable years immediately preceding the taxable year for which the consolidated return is filed (sec. 1504(c)(2)). Present law also provides that a corporation that is exempt from taxation under Code section 501 is not an includable corporation (sec. 1504(b)(1)).

Description of Proposal

The proposal provides rules for filing consolidated returns for affiliated groups including any organization with respect to which the grandfather rule under Code section 501(m) was repealed by section 1042 of the 1997 Act. The proposal provides that rules similar to the rules of Treasury Regulation section 1.1502–75(d)(5) apply in the case of such an organization. Thus, an affiliated group including such an organization may make the election described in section 1504(c)(2) (relating to a 5-year period) without regard to whether the organization was previously exempt from tax under Code section 501.

8. Treatment of net operating losses arising from certain eligible losses (sec. 403(h) of the bill, sec. 1082 of the 1997 Act, and sec. 172(b)(1)(F) of the Code)

Present Law

The 1997 Act changed the general net operating loss (''NOL'') carryback period of a taxpayer from three years to two years. The three-year carryback period was retained in the case of an NOL attributable to an eligible loss. An eligible loss is defined as (1) a casualty or theft loss of an individual taxpayer, or (2) an NOL attributable to a Presidentially declared disaster area by a taxpayer engaged in a farming business or a small business. Other special rules apply to real estate investment trusts (REITs) (no carrybacks), specified liability losses (10-year carryback), and excess interest losses (no carrybacks).

Description of Proposal

The proposal coordinates the use of eligible losses with the general rule for NOLs in the same manner as a loss arising from a specified liability loss. Thus, an eligible loss for any year is treated as a separate net operating loss and is taken into account after the remaining portion of the net operating loss for the taxable year.

9. Determination of unborrowed policy cash value under COLI pro rata interest disallowance rules (sec. 403(i) of the bill, sec. 1084 of the 1997 Act, and sec. 246(f) of the Code)

Present Law

In the case of a taxpayer other than a natural person, no deduction is allowed for the portion of the taxpayer's interest expense that is allocable to unborrowed policy cash surrender values with respect to any life insurance policy or annuity or endowment contract issued after June 8, 1997. Interest expense is allocable to unborrowed policy cash values based on the ratio of (1) the taxpayer's average unborrowed policy cash values of life insurance policies and annuity and endowment contracts, issued after June 8, 1997, to (2) the sum of (a) in the case of assets that are life insurance policies or annuity or endowment contracts, the average unborrowed policy cash values and (b) in the case of other assets the average adjusted bases for all such other assets of the taxpayer. The unborrowed policy cash values means the cash surrender value of the policy or contract determined without regard to any surrender charge, reduced by the amount of any loan with respect to the policy or contract. The cash surrender value is to be determined without regard to any other contractual or noncontractual arrangement that artificially depresses the unborrowed policy cash value of a contract.

Description of Proposal

The proposal clarifies the meaning of ''unborrowed policy cash value'' under section 264(f)(3), with respect to any life insurance, annuity or endowment contract. The technical correction clarifies that under section 264(f)(3), if the cash surrender value (determined without regard to any surrender charges) with respect to any policy or contract does not reasonably approximate its actual value, then the amount taken into account for this purpose is the greater of (1) the amount of the insurance company's liability with respect to the policy or contract, as determined for purposes of he annual statement approved by the National Association of Insurance Commissioners, (2) the amount of the insurance company's reserve with respect to the policy or contract for purposes of such annual statement; or such other amount as is determined by the Treasury Secretary. No inference is intended that such amounts may not be taken into account in determining the cash surrender value of a policy or contract in such circumstances for purposes of any other provision of the Code.

10. Payment of taxes by commercially acceptable means (sec. 403(k) of the bill, sec. 1205 of the 1997 Act, and sec. 6311 (d)(2) of the Code)

Present Law

The Code generally permits the payment of taxes by commercially acceptable means (such as credit cards) (sec. 6311(d)). The Treasury Secretary may not pay any fee or provide any other consideration in connection with this provision. This fee prohibition may have an unintended impact on Treasury contracts for the provision of services unrelated to the payment of income taxes by commercially acceptable means.

Description of Proposal

The proposal clarifies that the prohibition on paying any fees or providing any other consideration applies to the use of credit, debit, or charge cards for the payment of income taxes.

C. TECHNICAL CORRECTIONS TO THE 1984 ACT

1. Casualty loss deduction (sec. 404 of the bill, sec. 711(c) of the 1984 Act, and secs. 172(d)(4), 67(b)(3), 68(c)(3), and 873(b) of the Code)

Present Law

The Tax Reform Act of 1984 (''1984 Act'') deleted casualty and theft losses from property connected with a nonbusiness transaction entered into for profit from the list of losses set forth in section 165(c)(3). This amendment was made in order to provide that these losses were deductible in full and not subject to the $100 per casualty limitation or the 10-percent adjusted gross income floor applicable to personal casualty losses. However, the amendment inadvertently eliminated the deduction for these losses from the computation of the net operating loss. Also, the Tax Reform Act of 1986 provided that casualty losses described in section 165(c)(3) are not miscellaneous itemized deductions subject to the 2-percent adjusted gross income floor, and the Revenue Reconciliation Act of 1990 provided that these losses are not treated as itemized deductions in computing the overall limitation on itemized deductions. The losses of nonresident aliens are limited to deductions described in section 165(c)(3). Because of the change made by the 1984 Act, the reference to section 165(c)(3) does not include casualty and theft losses from nonbusiness trans-Actions entered into for profit.

Description of Proposal

The proposal provides that all deductions for nonbusiness casualty and theft losses are taken into account in computing the net operating loss. Also, these deductions are not treated as miscellaneous itemized deductions subject to the 2-percent adjusted gross income floor, or as itemized deductions subject to the overall limitation on itemized deductions, and are allowed to nonresident aliens.

Effective Dates

The proposal relating to the net operating loss and the deduction for nonresident aliens applies to taxable years beginning after December 31, 1983.

The proposal relating to miscellaneous itemized deduction applies taxable years beginning after December 31, 1986.

The proposal relating to the overall limitation on itemized deductions applies to taxable years beginning after December 31, 1990.

D. DISCLOSURE OF TAX RETURN INFORMATION TO THE DEPARTMENT OF AGRICULTURE (SEC. 405(A) OF THE BILL AND SEC. 6103(J) OF THE CODE)

Present Law

Tax return information generally may not be disclosed, except as specifically provided by statute. Disclosure is permitted to the Bureau of the Census for specified purposes, which included the responsibility of structuring, conducting, and preparing the census of agriculture (sec. 6103(j)(1)). The Census of Agriculture Act of 1997 (P.L. 105–113) transferred this responsibility from the Bureau of the Census to the Department of Agriculture.

Description of Proposal

The proposal permits the continuation of disclosure of tax return information for the purpose of structuring, conducting, and preparing the census of agriculture by authorizing the Department of Agriculture to receive this information.

Effective Date

The proposal is effective on the date of enactment of this technical correction.

E. TECHNICAL CORRECTIONS TO THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY (SEC. 405(B) OF THE BILL, SEC. 9004 OF THE ACT, AND SEC. 9503(F) OF THE CODE)

Present Law

The Transportation Equity Act for the 21st Century (''Transportation Equity Act'') (P.L. 105–178) extended the Highway Trust Fund and accompanying highway excise taxes. The Transportation Equity Act also changed the budgetary treatment of Highway Trust Fund expenditures, including repeal of a provision that balances maintained in the Highway Trust Fund pending expenditure earn interest from the General Fund of the Treasury.

Description of Proposal

The proposal clarifies that the Secretary of the Treasury is not required to invest Highway Trust Fund balances in interest-bearing obligations (because any interest paid to the Trust Fund by the General Fund would be immediately returned to the General Fund).

F. REPEAL OF PROVISIONS RELATING TO DISTRICT OF COLUMBIA JUDICIAL RETIREMENT PROGRAM (SEC. 405(C) OF THE BILL)

Present Law

Section 804 of the Treasury and General Government Appropriations Act, 1999, makes certain technical and clarifying amendments to the Judicial Retirement Program of the District of Columbia. Included in these amendments were certain amendments that applied for purposes of the Internal Revenue Code of 1986.

Description of Proposal

Section 804 of the Treasury and General Government Appropriations Act, 1999, is repealed.

Effective Date

The proposal is effective on the date of enactment.

G. PERFECTING AMENDMENTS RELATED TO WITHHOLDING FROM SOCIAL SECURITY BENEFITS AND OTHER FEDERAL PAYMENTS (SEC. 406 OF THE BILL AND SECS. 201 AND 207 OF THE SOCIAL SECURITY ACT)

Present Law

The Uruguay Round Agreements Act (P.L. 103–465) contained a provision requiring that U.S. taxpayers who receive specified Federal payments (including Social Security benefits) be given the option of requesting that the Federal agency making the payments withhold Federal income taxes from the payments.

Description of Proposal

Due to a drafting oversight, the Uruguay Round Agreements Act included only the necessary changes to the Internal Revenue Code (''Code'') and failed to make certain conforming changes to the Social Security Act (specifically a section that prohibits assignments of benefits). The proposal amends the Social Security Act anti-assignment section to allow the Code provisions to be implemented. The proposal also allocates funding for the Social Security Administration to administer the tax-withholding provisions.

Effective Date

The proposal applies to benefits paid on or after the first day of the second month beginning after the month of enactment.

FOOTNOTES

[1] This document may be cited as follows: Joint Committee on Taxation, Description of Provisions in S. 2622, the Tax Relief Extension Act of 1998 (JCX–70–98), October 10, 1998. (References in this document to the ''1997 Act'' refer to the Taxpayer Relief Act of 1997.)

[2] A special rule is designed to gradually recompute a start-up firm's fixed-base percentage based on its actual research experience. Under this special rule, a start-up firm will be assigned a fixed-base percentage of 3 percent for each of its first five taxable years after 1993 in which it incurs qualified research expenditures. In the event that the research credit is extended beyond the scheduled expiration date, a start-up firm's fix-based percentage for its sixth through tenth taxable years after 1993 in which it incurs qualified research expenditures will be a phased-in ratio based on its actual research experience. For all subsequent taxable years, the taxpayer's fixed-based percentage will be its actual ratio of qualified research expenditures to gross receipts for any five years selected by the taxpayer from its fifth through tenth taxable years after 1993 (sec. 41(c)(3)(B)).

[3] Under a special rule, 75 percent of amounts paid to a research consortium for qualified research is treated as qualified research expenses eligible for the research credit (rather than 65 percent under the general rule under sec. 41(b)(3) governing contract research expenses) if (1) such research consortium is a tax-exempt organization that is described in section 501(c)(3) (other than a private foundation) or section 501(c)(6) and is organized and operated primarily to conduct scientific research, and (2) such qualified research is conducted by the consortium on behalf of the taxpayer and one or more persons not related to the taxpayer.

[4] The amount of the deduction allowable for a taxable year with respect to a charitable contribution may be reduced depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer (secs. 170(b) and 170(e)).

[5] The President canceled these exceptions in 1997 pursuant to the Line Item Veto Act. On June 25, 1998, the U.S. Supreme Court held that the cancellation procedures set forth in the Line Item Veto Act are unconstitutional *Clinton* v. *City of New York*, 118 S. Ct. 2091 (June 25, 1998).

[6] This rule applies to fiscal years after 1996. For fiscal year 1996, this payment was to be made not later than 30 days after the production flexibility contract was entered into.

[7] The amount of elected farm income of a taxpayer for a taxable year may not exceed the taxable income attributable to any farming business for the year.

[8] The bill contains a similar amendment to section 1(h)(13), as amended by section 5001 of the 1998 Act, to provide that, for purposes of taxing the recipient of a distribution made after 1997 by a CRT, amounts will not be taken into account in computing 28-percent rate gain by reason of being properly taken into account before May 7, 1997, or by reason of the property being held for not more than 18 months. Thus, no amount distributed by a CRT after 1997 will be treated as in the 28-percent category (other than by reason of the disposition of collectibles or small business stock).

[9] This exception (as certain other exceptions) does not apply if the stock held before the acquisition was acquired pursuant to a plan (or series of related transactions) to acquire a 50-percent or greater interest in the distributing or a controlled corporation.

[10] The 1997 Act does not limit the otherwise applicable Treasury regulatory authority under section 336(e) of the Code. Nor does it limit the otherwise applicable provisions of section 1367 with respect to the effect on shareholder stock basis of gain recognized by an S corporation under this provision.

ESTIMATED REVENUE EFFECTS OF S. 2626, THE ''TAX RELIEF EXTENSION RELIEF ACT OF 1998''

[Fiscal years 1999–2007, in millions of dollars]

Provision	Effective	1999	2000	2001	2002	2003	2004	2005	2006	2007	1999–02	2003–07	1999–07
I. EXTENSION OF EXPIRING PROVISIONS:													
Subtitle A. Expiring Tax Provisions:													
A. Extend the R&E Credit (through 6/30/99)	7/1/98	−1,126	−505	−258	−184	−94	−20	....	....	....	2,073	−114	−2,187
B. Extend the Work Opportunity Tax Credit (through 6/30/99)	wpoifibwa 6/30/98	−191	−140	−73	−29	−10	−2	....	....	....	−434	−11	−445
C. Extend the Welfare-to-Work Tax Credit (through 6/30/99)	wpoifibwa 4/30/99	−4	−10	−7	−3	−1	....	....	....	....	−24	−1	−25
D. Extend Contributions of Appreciated Stock to Private Foundations (through 6/30/99).	7/1/98	−63	−13	−4	....	....	....	....	....	....	80	....	−80
E. 1-Year Extension of Exemption from Subpart F for Active Financing Income.	tybi 1999	−80	−180	....	....	....	....	....	....	....	−260	....	−260
F. Extension of Placed-in-Service Date For Certain Nonconventional Fuels Facilities (though 6/30/99).	DOE	−7	−26	−27	−38	−39	−40	−41	−42	−43	−109	−207	−315
G. Extension of Tax Information Reporting for Income Contingent Student Loan Program (through 9/30/04) [1].	([2])						NEGLIGIBLE BUDGET EFFECT						
Subtotal of Extension of Expiring Tax Provisions		−1,471	−874	−379	−254	−144	−62	−41	−42	−43	−2,980	−333	−3,312
SUBTITLE B. EXPIRING TRADE PROVISIONS:													
A. Extend the Generalized System of Preferences (through 12/31/99/) [1]	dpo/a 7/1/98	−393	−84	....	....	....	....	....	....	....	−477	....	−477
B. Extend Trade Adjustment Assistance (through 6/30/99)[1]	DOE	−34	−15	−1	....	....	....	....	....	....	−50	....	−50
Subtotal of Extension of Expiring Trade Provisions		−427	−99	−1	–	–	–	–	–	–	−527	–	−527
II. OTHER TAX PROVISIONS													
A. Increase Deduction for Health Insurance Expenses of Self-Employed Individuals—70% in 2001 and 100% in 2002 and thereafter.	tyba 12/31/00	....	....	−163	−702	−959	−637	−680	−602	−257	−864	−3,134	−3,998
B. Production Flexibility Contract Payments to Farmers Not Included in Income Prior to Receipt.	tyea 12/31/95						NEGLIGIBLE BUDGET EFFECT						
C. Permanent Extension of Income Averaging for Farmers	tyba 12/31/00	....	....	−2	−21	−22	−22	−23	−24	−24	−23	−115	−138
D. Treatment of Nonrefundable Personal Credits (child credit, adoption, credit, HOPE and Lifetime Learning credits, etc.) Under the Alternative Individual Minimum Tax (for 1998 only).	tybi 1998	−474	....	....	....	....	....	....	....	....	−474	....	−474
Subtotal of Other Tax Provisions		−474	....	−165	−723	−981	−659	−703	−626	−281	−1,361	−3,249	−4,610
REVENUE OFFSET PROVISION													
A. Change the Treatment of Certain Deductible Liquidating Distributions of RICs and REITs.	dma 5/21/98	2,425	1,109	723	640	672	705	741	778	817	4,897	3,713	8,610

ESTIMATED REVENUE EFFECTS OF S. 2626, THE "TAX RELIEF EXTENSION RELIEF ACT OF 1998"—Continued

[Fiscal years 1999–2007, in millions of dollars]

Provision	Effective	1999	2000	2001	2002	2003	2004	2005	2006	2007	1999–02	2003–07	1999–07
Subtotal of Revenue Offset Provision		2,425	1,109	723	640	672	705	741	778	817	4,897	3,713	8,610
V. TAX TECHNICAL CORRECTIONS PROVISIONS		NO REVENUE EFFECT											
Net total		53	136	178	−337	−453	−16	−3	110	493	29	131	161

[1] Estimate provided by the Congressional Budget Office.

[2] Effective for requests made after the date of enactment and before 10/1/03.

NOTES: Details may not add to totals due to rounding. Legend for "Effective" column: dma = distributions made after; DOE = Date of enactment; dpo/a = duties paid on or after; tyba = taxable years beginning after; tybi = taxable years beginning in; tyea = taxable years ending after; wpoifibwa = wages paid or incurred for individuals beginning work after.

Prepared by Joint Committee on Taxation.

Mr. MOYNIHAN. Mr. President, I am pleased to cosponsor, along with our esteemed Chairman, Senator ROTH, a Senate Finance Committee bill to extend a package of expired tax provisions. Unfortunately, dealing with this group of expired tax items has become a routine annual event for the Committee and for the Congress. This bill extends universally popular items such as the credit for increasing research activities, the Work Opportunity Credit, and the deduction for gifts of appreciated stock to private foundations through June of next year. It is my hope that 1999 will be the year that the entire group of "extenders" are finally made permanent.

We thank Senator ROTH for ensuring that the Finance Committee is heard on this matter. Our action is a reminder that the United States Congress does not act, on tax bills or any other measures, as a unicameral legislature. Indeed, this Finance committee measure improves in several ways on the bill passed by the House Ways and Means Committee yesterday:

First, we extend the Trade Assistance Program from October 1, 1998 through June 30, 1999. This is an important program established in the Trade Expansion Act of 1962 that provides training and income support for workers adversely affected by import competition. It is a commitment we have made to workers, and it ought to be kept.

Second, the bill includes a provision that prevents the tax benefit of nonrefundable personal credits such as the $500 per child credit and the adoption credit from being eroded by the Alternative Minimum Tax. This was to have been included as part of the Taxpayer Relief Act of 1997, but was dropped for some unknown reason as part of the final compromise. Without the "fix" included in this bill, we will trap many unsuspecting taxpayers who sit down to prepare their 1998 Federal income tax returns next spring.

I applaud the work of the chairman and the committee in moving quickly to agree on this bill and, for the greater good, deferring action on a number of very important narrower items until next year.

By Mr. THOMPSON (for himself, Mr. LIEBERMAN, Mr. BROWNBACK, Mr. ROTH, and Mr. STEVENS):

S. 2623. A bill to increase the efficiency and effectiveness of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

• Mr. THOMPSON. Mr. President, today I am pleased to introduce the Government for the 21st Century Act of 1998, a bill to establish a commission to bring the structure of our government in line with the needs of our Nation in the next century. This bipartisan legislation is the result of work over several months between myself and Senators GLENN, BROWNBACK, LIEBERMAN, ROTH, and STEVENS. It has been carefully crafted to address not just what our government should look like, but the more fundamental question of what it should do.

We all know the old adage, "form follows function"—but in the case of our government, form too often impedes function. The federal infrastructure should enable it to respond to national needs and the needs of individual citizens quickly, efficiently, and successfully—but years of outmoded bureaucracies, procedures and red tape have impeded the kind of responsible service our citizens deserve and expect. The government we have today was designed for a world which has long since passed into history, a world in which personal computers did not exist, two-income families were the exception and no one had ever heard of a "sport utility vehicle". In short, it is time to modernize the federal government, and there is no more appropriate time to do it than on the eve of the next century.

It seems to me that the federal government is doing too many things to do them all well. I believe we must reevaluate the functions of government to improve government service where it is needed, redirect resources where it is necessary, and get the federal government out of activities in which it does not belong. Our Founding Fathers envisioned a government of defined and limited powers. I can imagine their dismay if they knew the size and scope of the federal government today. We need to return to the limited government that the Founders intended, and the Commission established in the legislation we are introducing today is a major step in that direction.

The Government Restructuring and Reform Commission established by this legislation would take a hard look at federal departments, agencies and programs and ask—

Can and should we consolidate these agencies and programs to improve the implementation of their statutory missions, eliminate activities not essential to their statutory missions, and reduce duplication of activities while increasing accountability for performance?

How can we improve management to maximize productivity, effectiveness and accountability?

What criteria should we use in determining whether a federal activity should be privatized?

Which departments or agencies should be eliminated because their functions are obsolete, redundant, or better performed by state and local governments or the private sector?

We all want a federal government that is as innovative and responsive as the government we envision. Our challenge is to determine how to get there. We must start by asking ourselves what the essential functions of government will be in the next century, so we may tailor the scope and structure of the executive branch accordingly. Some activities now performed by the federal government may require more resources; others will surely require less. The Commission on Government Restructuring and Reform will give us a blueprint for designing a federal government to meet our Nation's needs now and in the future.

I am pleased that Senators LIEBERMAN, BROWNBACK, ROTH, and STEVENS are joining me in introducing this bill today, and I thank them for the time and staff they have devoted to the effort. I look forward to working with them on this important legislation.

I ask unanimous consent that the Government for the 21st Century Act, along with the brief summary and section-by-section analysis, be printed in the RECORD.

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

S. 2623

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

SECTION 1. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Government for the 21st Century Act of 1998".

(b) PURPOSE.—

(1) IN GENERAL.—The purpose of this Act is to reduce the cost and increase the effectiveness of the Federal Government by reorganizing departments and agencies, consolidating redundant activities, streamlining operations, and decentralizing service delivery in a manner that promotes economy, efficiency, and accountability in Government programs. This Act is intended to result in a Federal Government that—

(A) utilizes a smaller and more effective workforce;

(B) motivates its workforce by providing a better organizational environment; and

(C) ensures greater access and accountability to the public in policy formulation and service delivery.

(2) SPECIFIC GOALS.—This Act is intended to achieve the following goals for improvements in the performance of the Federal Government by October 1, 2002:

(A) A restructuring of the cabinet and subcabinet level agencies.

(B) A substantial reduction in the costs of administering Government programs.

(C) A dramatic and noticeable improvement in the timely and courteous delivery of services to the public.

(D) Responsiveness and customer-service levels comparable to those achieved in the private sector.

SEC. 2. DEFINITIONS.

For purposes of this Act, the term—

(1) ''agency'' includes all Federal departments, independent agencies, Government-sponsored enterprises, and Government corporations; and

(2) ''private sector'' means any business, partnership, association, corporation, educational institution, nonprofit organization, or individuals.

SEC. 3. THE COMMISSION.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the Commission on Government Restructuring and Reform (hereafter in this Act referred to as the ''Commission'').

(b) DUTIES.—The Commission shall examine and make recommendations to reform and restructure the organization and operations of the executive branch of the Federal Government to improve economy, efficiency, effectiveness, consistency, and accountability in Government programs and services, and shall include and be limited to proposals to—

(1) consolidate or reorganize programs, departments, and agencies in order to—

(A) improve the effective implementation of their statutory missions;

(B) eliminate activities not essential to the effective implementation of statutory missions;

(C) reduce the duplication of activities among agencies; or

(D) reduce layers of organizational hierarchy and personnel where appropriate to improve the effective implementation of statutory missions and increase accountability for performance.

(2) improve and strengthen management capacity in departments and agencies (including central management agencies) to maximize productivity, effectiveness, and accountability;

(3) propose criteria for use by the President and Congress in evaluating proposals to establish, or to assign a function to, an executive entity, including a Government corporation or Government-sponsored enterprise;

(4) define the missions, roles, and responsibilities of any new, reorganized, or consolidated department or agency proposed by the Commission;

(5) eliminate the departments or agencies whose missions and functions have been determined to be—

(A) obsolete, redundant, or complete; or

(B) more effectively performed by other units of government (including other Federal departments and agencies and State and local governments) or by the private sector; and

(6) establish criteria for use by the President and Congress in evaluating proposals to privatize, or to contract with the private sector for the performance of, functions currently administered by the Federal Government.

(c) LIMITATIONS ON COMMISSION RECOMMENDATIONS.—The Commission's recommendations or proposals under this Act may not provide for or have the effect of—

(1) continuing an agency beyond the period authorized by law for its existence;

(2) continuing a function beyond the period authorized by law for its existence;

(3) authorizing an agency to exercise a function which is not already being performed by any agency;

(4) eliminating the enforcement functions of an agency, except such functions may be transferred to another executive department or independent agency; or

(5) adding, deleting, or changing any rule of either House of Congress.

(d) APPOINTMENT.—

(1) MEMBERS.—The Commissioners shall be appointed for the life of the Commission and shall be composed of nine members of whom—

(A) three shall be appointed by the President of the United States;

(B) two shall be appointed by the Speaker of the House of Representatives;

(C) one shall be appointed by the minority Leader of the House of Representatives;

(D) two shall be appointed by the majority Leader of the Senate; and

(E) one shall be appointed by the minority Leader of the Senate.

(2) CONSULTATION REQUIRED.—The President, the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate shall consult among themselves prior to the appointment of the members of the Commission in order to achieve, to the maximum extent possible, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission under subsection (b).

(3) CHAIRMAN.—At the time the President nominates individuals for appointment to the Commission the President shall designate one such individual who shall serve as Chairman of the Commission.

(4) MEMBERSHIP.—A member of the Commission may be any citizen of the United States who is not an elected or appointed Federal public official, a Federal career civil servant, or a congressional employee.

(5) CONFLICT OF INTERESTS.—For purposes of the provisions of chapter 11 of part I of title 18, United States Code, a member of the Commission (to whom such provisions would not otherwise apply except for this paragraph) shall be a special Government employee.

(6) DATE OF APPOINTMENTS.—All members of the Commission shall be appointed within 90 days after the date of enactment of this Act.

(e) TERMS.—Each member shall serve until the termination of the Commission.

(f) VACANCIES.—A vacancy on the Commission shall be filled in the same manner as was the original appointment.

(g) MEETINGS.—The Commission shall meet as necessary to carry out its responsibilities. The Commission may conduct meetings outside the District of Columbia when necessary.

(h) PAY AND TRAVEL EXPENSES.—

(1) PAY.—

(A) CHAIRMAN.—Except for an individual who is chairman of the Commission and is otherwise a Federal officer or employee, the chairman shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including traveltime) during which the chairman is engaged in the performance of duties vested in the Commission.

(B) MEMBERS.—Except for the chairman who shall be paid as provided under subparagraph (A), each member of the Commission who is not a Federal officer or employee shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the performance of duties vested in the Commission.

(2) TRAVEL.—Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(i) DIRECTOR.—

(1) APPOINTMENT.—The Chairman of the Commission shall appoint a Director of the Commission without regard to section 5311(b) of title 5, United States Code.

(2) PAY.—The Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(j) STAFF.—

(1) APPOINTMENT.—The Director may, with the approval of the Commission, appoint and fix the pay of employees of the Commission without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and any Commission employee may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that a Commission employee may not receive pay in excess of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) DETAIL.—

(A) DETAILS FROM AGENCIES.—Upon request of the Director, the head of any Federal department or agency may detail any of the personnel of the department or agency to the Commission to assist the Commission in carrying out its duties under this Act.

(B) DETAILS FROM CONGRESS.—Upon request of the Director, a Member of Congress or an officer who is the head of an office of the Senate or House of Representatives may detail an employee of the office or committee of which such Member or officer is the head to the Commission to assist the Commission in carrying out its duties under this Act.

(C) REIMBURSEMENT.—Any Federal Government employee may be detailed to the Commission with or without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(k) SUPPORT.—

(1) SUPPORT SERVICES.—The Office of Management and Budget shall provide support services to the Commission.

(2) ASSISTANCE.—The Comptroller General of the United States may provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(l) OTHER AUTHORITY.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code. The Commission shall give public notice of any such contract before entering into such contract.

(m) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The Commission shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(n) FUNDING.—There are authorized to be appropriated to the Commission $2,500,000 for fiscal year 1999, and $5,000,000 for each of fiscal years 2000 and 2001 to enable the Commission to carry out its duties under this Act.

(o) TERMINATION.—The Commission shall terminate no later than September 30, 2001.

SEC. 4. PROCEDURES FOR MAKING RECOMMENDATIONS.

(a) PRESIDENTIAL RECOMMENDATIONS.—No later than July 1, 1999, the President may submit to the Commission a report making recommendations consistent with the criteria under section 3 (b) and (c). Such a report shall contain a single legislative proposal (including legislation proposed to be enacted) to implement those recommendations for which legislation is necessary or appropriate.

(b) IN GENERAL.—No later than December 1, 2000, the Commission shall prepare and submit a single preliminary report to the President and Congress, which shall include—

(1) a description of the Commission's findings and recommendations, taking into account any recommendations submitted by the President to the Commission under subsection (a); and

(2) reasons for such recommendations.

(c) COMMISSION VOTES.—No legislative proposal or preliminary or final report (including a final report after disapproval) may be submitted by the Commission to the President and Congress without the affirmative vote of at least 6 members.

(d) DEPARTMENT AND AGENCY COOPERATION.—All Federal departments, agencies, and divisions and employees of all departments, agencies, and divisions shall cooperate fully with all requests for information from the Commission and shall respond to any such requests for information expeditiously, or no later than 15 calendar days or such other time agreed upon by the requesting and requested parties.

SEC. 5. PROCEDURE FOR IMPLEMENTATION OF REPORTS.

(a) PRELIMINARY REPORT AND REVIEW PROCEDURE.—Any preliminary report submitted to the President and Congress under section 4(b) shall be made immediately available to the public. During the 60-day period beginning on the date on which the preliminary report is submitted, the Commission shall announce and hold public hearings for the purpose of receiving comments on the reports.

(b) FINAL REPORT.—No later than 6 months after the conclusion of the period for public hearing under subsection (a), the Commission shall prepare and submit a final report to the President. Such report shall be made available to the public on the date of submission to the President. Such report shall include—

(1) a description of the Commission's findings and recommendations, including a description of changes made to the report as a result of public comment on the preliminary report;

(2) reasons for such recommendations; and

(3) a single legislative proposal (including legislation proposed to be enacted) to implement those recommendations for which legislation is necessary or appropriate.

(c) EXTENSION OF FINAL REPORT.—By affirmative vote pursuant to section 4(c), the Commission may extend the deadline under subsection (b) by a period not to exceed 90 days.

(d) REVIEW BY THE PRESIDENT.—

(1) IN GENERAL.—

(A) PRESIDENTIAL ACTION.—No later than 30 calendar days after receipt of a final report under subsection (b), the President shall approve or disapprove the report.

(B) PRESIDENTIAL INACTION.—

(i) IN GENERAL.—If the President does not approve or disapprove the final report within 30 calendar days in accordance with subparagraph (A), Congress shall consider the report in accordance with clause (ii).

(ii) SUBMISSION.—Subject to clause (i), the Commission shall submit the final report, without further modification, to Congress on the date occurring 31 calendar days after the date on which the Commission submitted the final report to the President under subsection (b).

(2) APPROVAL.—If the report is approved, the President shall submit the report to Congress for legislative action under section 6.

(3) DISAPPROVAL.—If the President disapproves a final report, the President shall report specific issues and objections, including the reasons for any changes recommended in the report, to the Commission and Congress.

(4) FINAL REPORT AFTER DISAPPROVAL.—The Commission shall consider any issues or objections raised by the President and may modify the report based on such issues and objections. No later than 30 calendar days after receipt of the President's disapproval under paragraph (3), the Commission shall submit the final report (as modified if modified) to the President and to Congress.

SEC. 6. CONGRESSIONAL CONSIDERATION OF REFORM PROPOSALS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term ''implementation bill'' means only a bill which is introduced as provided under subsection (b), and contains the proposed legislation included in the final report submitted to the Congress under section 5(d) (1)(B), (2), or (4), without modification; and

(2) the term ''calendar day'' means a calendar day other than one on which either House is not in session because of an adjournment of more than three days to a date certain.

(b) INTRODUCTION, REFERRAL, AND REPORT OR DISCHARGE.—

(1) INTRODUCTION.—On the first calendar day on which both Houses are in session, on or immediately following the date on which a final report is submitted to the Congress under section 5(d) (1)(B), (2), or (4), a single implementation bill shall be introduced (by request)—

(A) in the Senate by the Majority Leader of the Senate, for himself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate; and

(B) in the House of Representatives by the Majority Leader of the House of Representatives, for himself and the Minority Leader of the House of Representatives, or by Members of the House of Representatives designated by the Majority Leader and Minority Leader of the House of Representatives.

(2) REFERRAL.—The implementation bills introduced under paragraph (1) shall be referred to the appropriate committee of jurisdiction in the Senate and the appropriate committee of jurisdiction in the House of Representatives. A committee to which an implementation bill is referred under this paragraph may report such bill to the respective House with amendments proposed to be adopted. No such amendment may be proposed unless such proposed amendment is relevant to such bill.

(3) REPORT OR DISCHARGE.—If a committee to which an implementation bill is referred has not reported such bill by the end of the 30th calendar day after the date of the introduction of such bill, such committee shall be immediately discharged from further consideration of such bill, and upon being reported or discharged from the committee, such bill shall be placed on the appropriate calendar.

(c) SENATE CONSIDERATION.—

(1) IN GENERAL.—On or after the fifth calendar day after the date on which an implementation bill is placed on the Senate calendar under subsection (b)(3), it is in order (even if a previous motion to the same effect has been disagreed to) for any Senator to make a motion to proceed to the consideration of the implementation bill. The motion is not debatable. All points of order against the implementation bill (and against consideration of the implementation bill) other than points of order under Senate Rule 15, 16, or for failure to comply with requirements of this section are waived. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion to proceed is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the implementation bill is agreed to, the Senate shall immediately proceed to consideration of the implementation bill.

(2) DEBATE.—In the Senate, no amendment which is not relevant to the bill shall be in order. A motion to postpone is not in order. A motion to recommit the implementation bill is not in order. A motion to reconsider the vote by which the implementation bill is agreed to or disagreed to is not in order.

(3) APPEALS FROM CHAIR.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to an implementation bill shall be decided without debate.

(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—At any time on or after the fifth calendar day after the date on which each committee of the House of Representatives to which an implementation bill is referred has reported that bill, or has been discharged under subsection (b)(3) from further consideration of that bill, the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of that bill. All points of order against the bill, the consideration of the bill, and provisions of the bill shall be waived, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed 10 hours, to be equally divided and controlled by the Majority Leader and the Minority Leader, the bill shall be considered for amendment by title under the five-minute rule and each title shall be considered as having been read.

(2) AMENDMENTS.—Each amendment shall be considered as having been read, shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole, and shall be debatable for not to exceed 30 minutes, equally divided and controlled by the proponent and a Member opposed thereto, except that the time for consideration, including debate and disposition, of all amendments to the bill shall not exceed 20 hours.

(3) FINAL PASSAGE.—At the conclusion of the consideration of the bill, the Committee shall rise and report the bill to the House with such amendments as may have been agreed to, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

(e) CONFERENCE.—

(1) APPOINTMENT OF CONFEREES.—In the Senate, a motion to elect or to authorize the appointment of conferees by the presiding officer shall not be debatable.

(2) CONFERENCE REPORT.—No later than 20 calendar days after the appointment of conferees, the conferees shall report to their respective Houses.

(f) RULES OF THE SENATE AND HOUSE.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of an implementation bill described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 7. IMPLEMENTATION.

(a) RESPONSIBILITY FOR IMPLEMENTATION.—The Director of the Office of Management and Budget shall have primary responsibility for implementation of the Commission's report and the Act enacted under section 6 (unless such Act provides otherwise). The Director of the Office of Management and Budget shall notify and provide direction to heads of affected departments, agencies, and programs. The head of an affected department, agency, or program shall be responsible for implementation and shall proceed with the recommendations contained in the report as provided under subsection (b).

(b) DEPARTMENTS AND AGENCIES.—After the enactment of an Act under section 6, each affected Federal department and agency as a part of its annual budget request shall transmit to the appropriate committees of Congress its schedule for implementation of the provisions of the Act for each fiscal year. In addition, the report shall contain an estimate of the total expenditures required and the cost savings to be achieved by each action, along with the Secretary's assessment of the effect of the action. The report shall also include a report of any activities that have been eliminated, consolidated, or transferred to other departments or agencies.

(c) GAO OVERSIGHT.—The Comptroller General shall periodically report to Congress and the President regarding the accomplishment, the costs, the timetable, and the effectiveness of the implementation of any Act enacted under section 6.

SEC. 8. DISTRIBUTION OF ASSETS.

Any proceeds from the sale of assets of any department or agency resulting from the enactment of an Act under section 6 shall be—

(1) applied to reduce the Federal deficit; and

(2) deposited in the Treasury and treated as general receipts.

GOVERNMENT FOR THE 21ST CENTURY ACT—BRIEF SUMMARY

This legislation will reduce the cost and increase the effectiveness of the Federal government. It achieves this by establishing a commission to propose to Congress and the President a plan to bring the structure and operations of the Federal government in line with the needs of Americans in the next century.

Duties of the Commission: The Commission is authorized under this legislation to: Reorganize Federal departments and agencies, eliminate activities not essential to fulfilling agency missions, streamline government operations, and consolidate redundant activities.

The Commission would not be authorized to: Continue any agency or function beyond its current authorization, authorize functions not performed already by the Federal government, eliminate enforcement functions, and change rules of Congress.

Composition of the Commission: The Commission shall consist of 9 members appointed by the President and the Congressional Leadership of both parties. No more than 5 members can be affiliated with one party.

How the Commission Works: The process established in this legislation is bipartisan, allows input by the President, and is fully open and public.

1. The Commission Report: By July 1, 1999, the President may submit his recommendations to the Commission. By December 1, 1999, the Commission shall submit to the President and Congress a preliminary recommendations on restructuring the Federal Government. After a public comment period, the Commission shall prepare a final report and submit it to the President for review and comment.

2. Presidential Review and Comment: The President has 30 days to approve or disapprove the Commission's report. The Commission may or may not modify its report based on the President's comments, at its discretion, and shall issue its final report to Congress.

3. Congressional Consideration: The final report shall be introduced in both Houses by request and referred to the appropriate committee(s). After 30 days, the bills may be considered by the full House and Senate, and are subject to amendment.

Implementation: Once legislation effecting the Commission's recommendations is enacted, the Office of Management and Budget shall be responsible for implementing it, and the General Accounting Office shall report to Congress on the progress of implementation.

GOVERNMENT FOR THE 21ST CENTURY ACT OF 1998—SECTION BY SECTION ANALYSIS

SECTION 1. SHORT TITLE AND PURPOSE

This act may be known as the ''Government for the 21st Century Act of 1998.'' Its purpose is to reduce the cost and increase the effectiveness of the Executive Branch. It achieves this by creating a commission to propose to Congress and the President a plan to reorganize departments and agencies, consolidate redundant activities, streamline operations, and decentralize service delivery in a manner that promotes economy, efficiency, and accountability in government programs.

SECTION 2. DEFINITIONS

This section defines ''agency'' as all Federal departments, independent agencies, government-sponsored enterprises and government corporations, and defines ''private sector'' as any business, partnership, association, corporation, educational institution, nonprofit or individual.

SECTION 3. THE COMMISSION

This section establishes a commission, known as the Commission on Government Restructuring and Reform, to make recommendations to reform and restructure the executive branch. The Commission shall make proposals to consolidate, reorganize or eliminate executive branch agencies and programs in order to improve effectiveness, efficiency, consistency and accountability in government. The Commission shall also recommend criteria by which to determine which functions of government should be privatized. The Commission may not propose to continue agencies or functions beyond their current legal authorization, nor may the Commission propose to eliminate enforcement functions of any agencies or change the rules of either House of Congress.

The Commission shall be composed of 9 members appointed by the President, the Majority and Minority Leaders of the Senate, and the Speaker and Minority Leader of the House of Representatives.

The Commission shall be managed by a Director and shall have a staff, which may include detailees. The Office of Management and Budget shall provide support services and the Comptroller General may provide assistance to the Commission.

This section also authorizes $2.5 million to be appropriated in fiscal years 1999 and $5 million for fiscal years 2000 and 2001 for the Commission to carry out its duties, and states that the Commission shall terminate no later than September 30, 2001.

SECTION 4. PROCEDURES FOR MAKING RECOMMENDATIONS

By July 1, 1999, the President may submit his recommendation on government reorganization to the Commission. The President's recommendation must be consistent with the duties and limitations given to the Commission in formulating its recommendations by this act and must be transmitted to the Commission as a single legislative proposal.

By December 1, 1999, the Commission shall prepare and submit a single preliminary report to the President and Congress. That report must include a description of the Commission's findings and recommendations and the reasons for such recommendations. This proposed must be approved by at least 6 members of the Commission.

This section also provides that all Federal departments and agencies must cooperate fully with all requests for information from Commission.

SECTION 5. PROCEDURES FOR IMPLEMENTATION OF REPORTS

This section provides that any preliminary report submitted to the President and the Congress under Section 4 be made available immediately to the public. During the 60-day period after the submission of the preliminary report, the Commission shall hold public hearings to receive comments on the report.

Six months after the conclusion of the period for public comments, the Commission shall submit a final report to the President. This report shall be made available to the public, and shall include a description of the Commission's findings and recommendations, the reasons for such recommendations, and a single legislative proposal to implement the recommendations.

The President shall then approve or disapprove the report within 30 days. If he fails to act, after 30 days the report is immediately submitted to Congress. If the President approves the report, he than shall submit the report to Congress for legislative action under Section 6.

If he disapproves the final report, the President shall report specific issues and objections, including the reasons for any changes recommended in the report, to the Commission and Congress. For 30 days after the President disapproves a report, the Commission may consider any issues and objections raised by the President and may modify the report on these issues and objections. After 30 days, the Commission must submit its final report (as modified if modified) to the President and Congress.

SECTION 6. CONGRESSIONAL CONSIDERATION OF REFORM PROPOSALS

After a final report is submitted to the Congress, the single implementation bill shall be introduced by request in the House and Senate by the Majority and Minority Leaders in each chamber or their designees.

This section stipulates that the implementation bill be referred to the appropriate committee of jurisdiction in the Senate and the appropriate committee of jurisdiction in the House of Representatives. Each committee must report the bill to its respective House chamber within 30 days with relevant amendments proposed to be adopted. If a committee fails to report such bill within 30 days, that committees is immediately discharged from further consideration, and the bill is placed on the appropriate calendar.

Section 6(c) outlines procedures for Senate floor consideration of legislation implementing the Commission's recommendation. On or after the fifth calendar day after the date on which the implementation bill is placed on the Senate calendar, any Senator may make a privileged motion to consider the implementation bill. Only relevant amendments shall be in order, and motions to postpone, recommit, or reconsider the vote by which the bill is agreed to are not in order.

Section 6(d) outlines procedures for House floor consideration of legislation implementing the Commission's recommendations.

General debate on the implementation bill is limited to 10 hours equally divided in the House, and controlled by the Majority and Minority Leaders. Amendments shall be considered by title under the five minute rule, and shall be debatable for 30 minutes equally divided. Debate on all amendments shall not exceed 20 hours.

This section further states that within 20 calendar days, conferees shall report to their respective House.

SECTION 7. IMPLEMENTATION

The Office of Management and Budget shall have primary responsibility for implementing the Commission's report and any implementation legislation that is enacted, unless otherwise specified in the implementation bill.

Federal departments and agencies are required to include a schedule for implementation of the provisions of the implementation as a part of their annual budget request.

GAO is given oversight responsibility and is required to report to the Congress and the President regarding the accomplishment, the costs, the timetable, and the effectiveness of the implementation process.

SECTION 8. DISTRIBUTION OF ASSETS

Any proceeds from the sale of assets of any department or agency resulting from the implementation legislation shall be applied to the Federal deficit and deposited in the Treasury and treated as general receipts.●

● Mr. BROWNBACK. Mr. President, I am pleased to join Senator THOMPSON in introducing the Government for the 21st Century Act of 1998. Both majority and minority members of the Senate Governmental Affairs Committee have been working on this legislation throughout this Congress and have come to agreement to introduce this important bill.

The Government for the 21st Century Act would establish a commission to propose to Congress and the President a plan to reduce the cost and increase the effectiveness of the Federal government by bringing its structure and operations in line with the needs of America in the next century. The commission would consist of nine members appointed by the President and the congressional leadership of both parties.

The President may submit his recommendations to the Commission by July 1, 1999. By December 1, 1999, the Commission shall submit to the President and Congress preliminary recommendations on restructuring the Federal government. After a public comment period, the Commission will prepare a final report to the President. Legislation based on the final report would be introduced in both Houses and referred to the appropriate committee of jurisdiction. The bill would be considered by both Houses after 30 days. Once the legislation is signed into law, the Office of Management and Budget would be responsible for implementation.

The Commission would reinforce our work to maintain a balanced budget. Good government must have agencies that operate efficiently and effectively within their core mission and within their budget. We have achieved one goal of operating within a balanced budget but we must continue to work towards the other. Even under a balanced budget and a budget surplus, inefficiencies and rising costs remain in the Federal government. A balanced budget and a budget surplus does not preclude the Federal government from being accountable to the American people. The Government for the 21st Century Act would see to it that the Federal government will continue to be accountable.●

By Mr. DOMENICI:

S. 2624. A bill to establish a program for training residents of low-income rural areas for, and employing the residents in, new telecommunications industry jobs located in the rural areas, and for other purposes; to the Committee on Labor and Human Resources.

THE RURAL EMPLOYMENT IN TELECOMMUNICATIONS INDUSTRY ACT OF 1998

Mr. DOMENICI. Mr. President, today, with great pleasure, I introduce ''The Rural Employment in Telecommunications Industry Act of 1998.''

The introduction of this Bill marks a historic opportunity for rural communities to create jobs within the telecommunications industry. The Bill establishes a program to train residents of low income rural areas for employment in telecommunications industry jobs located in those same rural areas.

As many of my colleagues know, I have an initiative called ''rural payday'' and I believe this Bill is yet another step in creating jobs for our rural areas. All too often a rural area is characterized by a high number of low income residents and a high unemployment rate.

Moreover, our rural areas are often dependent upon a small number of employers or a single industry for employment opportunities. Consequently, when there is a plant closing or a downturn in the economy or a slowdown in the area's industry the already present problems are only compounded. Mr. President, I would like to take a moment and talk about New Mexico.

While New Mexico may be the 5th largest state by size with its beautiful mountains, desert, and Great Plains and vibrant cities such as Albuquerque, Santa Fe, and Las Cruces it is also a very rural state. The Northwest and Southeast portions of the state are currently experiencing difficulties as a result of the downturn in the oil and gas industry. Additionally, the community of Roswell has been dealt a blow with the closing of the Levi Straus manufacturing plant.

As I stated before, rural areas that simply do not have the resources of more metropolitan areas can be simply devastated by a single event or downturn in the economy. And that Mr. President is why I am introducing ''The Rural Employment in Telecommunications Industry Act of 1998.''

The Bill will allow the Secretary of Labor to establish a program to promote rural employment in the telecommunications industry by providing grants to states with low income rural areas. The program will be a win win proposition for all involved because employers choosing to participate in the project by bringing jobs to the rural area will be assured of a highly skilled workforce.

The program will provide residents with intensive services to train them for the new jobs in the telecommunications industry. The intensive services will include customized training and appropriate remedial training, support services and placement of the individual in one the new jobs created by the program.

And that is what this bill is about, providing people with the tools needed to succeed. With these steps we are embarking on the road of providing our rural areas throughout our nation with a vehicle to create jobs. We are creating opportunities and an environment where our citizens can succeed and our communities can be vibrant.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2684

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rural Employment in Telecommunications Industry Act of 1998.''

SEC. 2. DEFINITIONS.

In this Act:

(1) DISLOCATED WORKER; LOW-INCOME INDIVIDUAL.—The terms ''dislocated worker'' and ''low-income individual'' have the meanings given the terms in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801).

(2) LOW-INCOME RURAL AREA.—The term ''low-income rural area'' means a county that—

(A) has a 1996 population of not less than 60,000 and not more than 105,000 persons;

(B) contains a municipality with a 1996 population of not less than 35,000 and not more than 50,000 persons;

(C) has a land area of not less than 5,500 and not more than 6,100 square miles;

(D) has a population density of not less than 10 and not more than 20 persons per square mile;

(E) has a 1996 per capita income that is—

(i) not less than $16,000 and not more than $16,500; and

(ii) not less than 86 and not more than 88 percent of the statewide per capita income for the State in which the county is located; or

(F) is a county no part of which is—

(i) within an area designated as a standard metropolitan statistical area by the Director of the Office of Management and Budget; or

(ii) within an area designated as a metropolitan statistical area by the Director of the Office of Management and Budget; or

(G)(i) is experiencing a significant contraction in the oil and natural gas exploration and development industry;

(ii) experienced a plant closing within 1 year before the date of enactment of this Act that significantly impacted the county; or

(iii) is in close proximity to an Indian reservation, as determined by the Bureau of Indian Affairs.

(3) INTENSIVE SERVICES.—The term ''intensive services'' means services described in section 134(d)(3) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(d)(3)).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(5) STATE.—The term ''State'' means 1 of the several States.

SEC. 3. RURAL EMPLOYMENT IN THE TELECOMMUNICATIONS INDUSTRY PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program to promote rural employment in the telecommunications industry. In carrying out the program, the Secretary shall make grants to States for projects described in subsection (b).

(b) USE OF FUNDS.—A State that receives a grant under subsection (a) shall use the funds made available through the grant to carry out a State telecommunications employment and training project. In carrying out the project, the State shall—

(1) train eligible individuals for new telecommunications industry jobs that will be located in low-income rural areas pursuant to arrangements with employers participating in the project, including ensuring that individuals receive—

(A) intensive services;

(B) customized training and appropriate remedial training described in paragraphs (2) and (3) of section 4; and

(C) appropriate supportive services; and

(2) arrange for the employment of the individuals in the telecommunications industry jobs.

(c) ELIGIBLE PARTICIPANTS.—To be eligible to participate in a project described in subsection (a), an individual shall be—

(1) a resident of a low-income rural area;

(2)(A) a low-income individual;

(B) a dislocated worker from the oil and natural gas exploration and development industry;

(C) an out-of-school youth;

(D) an individual with a disability, as defined in section 101 of the Workforce Investment Act of 1998;

(E) an individual who is receiving, or who has received within the past year, assistance under the State temporary assistance for needy families program established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or other public assistance;

(F) a veteran, as defined in section 101 of the Workforce Investment Act of 1998;

(G) a displaced homemaker, as defined in section 101 of the Workforce Investment Act of 1998;

(H) an older individual, as defined in section 101 of the Workforce Investment Act of 1998;

(I) a homeless individual;

(J) an individual eligible to participate in activities carried out under section 166 of the Workforce Investment Act of 1998;

(K) an individual eligible to participate in employment and training activities under section 134 of the Workforce Investment Act of 1998;

(L) a long-term unemployed individual; or

(M) an individual with multiple barriers to employment; and

(3) an individual who has been assessed by the entity carrying out the project and determined to need intensive services.

(d) LIMITATION.—The Secretary shall make the grants to not more than 3 States.

SEC. 4. APPLICATION AND STATE PLAN.

(a) CONTENTS.—To be eligible to receive a grant under this Act, a State shall submit an application to the Secretary of Labor at such time, in such manner, and containing such information as the Secretary may require, including a State plan that includes—

(1) information demonstrating how the project will train and employ eligible individuals, including individuals described in subparagraphs (C) through (M) of section 3(c)(2);

(2) an assurance that the project will include a customized training program for the customer service and supervisory competencies needed in the telecommunications industry jobs to be located in the low-income rural areas served;

(3) an assurance that the project will include appropriate remedial training in such areas as reading, writing, math, and English as a second language for eligible individuals who the entity carrying out the project assesses and determines need such training;

(4) includes information describing linkages, including linkages relating to providing supportive services for participants in and graduates of the project, between—

(A) the entity carrying out the project; and

(B) one-stop operators (as defined in section 101 of the Workforce Investment Act of 1998), one-stop partners (as defined in section 101 of the Workforce Investment Act of 1998), State workforce investment boards established under section 111 of such Act, and local workforce investment boards established under section 117 of such Act;

(5) information identifying certification criteria for individuals who successfully complete the training;

(6) an assurance that employers participating in the project will make available contributions to the costs of assessing and training participants in the project including those participants who are not eligible individuals described in subparagraph (c) for the new telecommunications jobs in an amount equal to not less than $1 for every $1 of Federal funds provided under the grant;

(7)(A) an assurance that the project will include an appropriate performance assessment program that will measure—

(i) the rate of completion of the training by participants in the training;

(ii) the percentage of the participants who obtain unsubsidized employment;

(iii) the wages of the participants at placement in the employment; and

(iv) the percentage of the participants retained in the employment after 6 months of employment; and

(B) an assurance that the entity carrying out the project will annually submit to the Secretary the results of the performance assessment program; and

(8)(A) information explaining how the activities carried out through the project are linked to State economic development activities; and

(B) information describing commitments from private sector employers to locate new telecommunications jobs and facilities within the low-income rural areas to be served, including commitments to provide any needed upgrade in the telecommunications infrastructure.

(b) ACCEPTANCE OF APPLICATIONS.—The Secretary shall accept applications submitted under subsection (a) not later than 90 days after the date of enactment of this Act.

(c) EVALUATION OF APPLICATIONS.—The Secretary shall evaluate, and approve or reject, each application submitted under subsection (a) that meets the criteria described in subsections (a) and (b) not later than 60 days after submission of the application.

(d) PRIORITY.—In determining which States receive grants under subsection (a), the Secretary will give priority to a State submitting a State plan describing a project that—

(1) will serve an area of high unemployment;

(2) will serve an area with a significant bilingual population;

(3) will serve an area with a significant minority population, including Native Americans;

(4) will serve an area with a high percentage of youth who have failed to complete secondary school;

(5) will serve an area significantly impacted by the contraction of the oil and natural gas exploration and development industry;

(6) will serve an area significantly impacted by recent plant closings; or

(7) is designed to create 1,000 or more new jobs within 2 years of the commencement of the training.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act for fiscal years 1999 through 2003.

In the RECORD of October 9, 1998, on page S12187 the following statement of Mr. KERREY to accompany his introduced bill. S. 2613, was incorrectly attributed to Mr. KERREY. The permanent RECORD will be corrected to reflect the following:

By Mr. KERREY:

S. 2613. A bill to accelerate the percentage of health insurance costs deductible by self-employed individuals through the use of revenues resulting from an estate tax technical correction; to the Committee on Finance.

HEALTH CARE DEDUCTIBILITY LEGISLATION

Mr. KERREY. Mr. President, I have a very simple proposition for the Senate. Let's close an accidental tax loophole for the heirs of people who leave estates worth more than $17 million and use the savings to help self-employed Americans—like the thousands of entrepreneurs on Nebraska's farms and ranches—afford the soaring cost of health care.

Today I am submitting legislation to accomplish that purpose.

The facts are very simple. Prior to 1997, when we passed the 1997 Balanced Budget Agreement, the first $600,000 of an estate was excluded from taxes. The old law gradually phased out this exclusion once an estate reached $17 million. The 1997 Act increases the value of an estate not subject to taxes. But a drafting error in the 1997 Balanced Budget Agreement failed to include the accompanying phase out of the exclusion on estates over $17 million.

Clearly this error needs to be fixed. Letting this mistake stand uncorrected will cost the American taxpayers nearly $900 million over the next ten years. To give you an idea of how much this provision does to benefit the few, consider that in 1995, the Internal Revenue Service estimates that just 300 tax returns were filed on estates over $20 million.

Congress had the opportunity to correct this error during consideration of the IRS Reform bill this year. Regrettably, the objections of a few to making this right overcame the support of the many for doing so.

Meanwhile, Mr. President, self-employed Americans are struggling to cope with the rising cost of health insurance, which they—unlike Americans employed by others—cannot fully deduct from their taxable income. The face of their struggle is most evident on farms and ranches. In Nebraska, producers are facing plunging commodity prices at the same time they face soaring costs of living, especially for health insurance. Today they can deduct 40 percent of the cost of their insurance. Under current law, they cannot fully deduct that cost until 2007.

So, my proposal is simple. Let's close the loophole that everyone admits was an accident, and use that money to accelerate the full deductibility of health insurance for the self-employed. It's a clear choice between a loophole that nobody wanted to exist and entrepreneurs who—especially those on our farms and ranches—may not exist much longer if we don't get them some help.

While I recognize time is short for passing this bill this year, I urge my colleagues to join me in supporting this legislation and in pursuing this goal next year.

MEDICARE HOME HEALTH FAIR PAYMENT ACT OF 1998—S. 2616

Statements on the bill, S. 2616, introduced on October 9, 1998, did not appear in the RECORD. The material follows:

By Mr. ROTH (for himself, Mr. MOYNIHAN, Mr. CHAFEE, Mr. BREAUX, Mr. JEFFORDS, Mr. DOMENICI, Ms. COLLINS, Mr. BAUCUS, Mr. D'AMATO, Mr. BRYAN, Mr. HATCH, Mr. KERREY, Mr. ROCKEFELLER, Mr. NICKLES, Mr. GRASSLEY, Ms. MOSELEY-BRAUN, and Mr. MURKOWSKI):

S. 2616. A bill to amend title XVIII of the Social Security Act to make revisions in the per beneficiary and per visit payment limits on payment for health services under the medicare program; to the Committee on Finance.

MEDICARE HOME HEALTH FAIR PAYMENT ACT OF 1998

Mr. ROTH. Mr. President, I rise to introduce the Medicare Home Health Fair Payment Act of 1998.

This legislation is the product of a great deal of hard work and analysis. It has bipartisan, bicameral, support. Currently, the bill has 15 cosponsors, and similar legislation was introduced in the House of Representatives.

Staff worked to make sure that the technical aspects of this bill could be implemented. After technical review from the Health Care Financing Administration, it is our understanding that the changes in home health payments could be implemented as intended.

I would like to thank the many Senators who were very helpful and contributed to the debate of addressing the home health interim payment system. In particular, I commend Senator COLLINS, Senator GRASSLEY, Senator BREAUX, Senator COCHRAN, and Senator BOND. All put forward legislative proposals which we examined closely, and which helped us in our development of the legislation now before us.

With this budget neutral proposal, about 82% of all home health agencies in the nation will benefit from improved Medicare payments. Although I have heard concerns that we do not go far enough to help some of the lowest cost agencies, it is an important step in the right direction. In fact, we have received letters of support from the Visiting Nurse Associations of America and the National Association for Homecare.

Let's remember where we were before the Balanced Budget Act of 1997. Home health spending was growing by leaps and bounds, cases of fraud and abuse were common, and the Medicare program was headed towards bankruptcy in 2003.

Last year, Medicare spent $17 billion for 270 million home health care visits so that one out of every ten beneficiaries received care at home from a nurse, a physical or occupational therapist, and/or a nurse aide.

Unlike any other Medicare benefit, the home health benefit has no limits on the number of visits or days of care a beneficiary can receive, beneficiaries pay no deductible, nor do they pay any co-payments.

Prior to BBA, home health agencies were reimbursed on a cost basis for all their costs, as long as they maintained average costs below certain limits. This payment system gave immense incentives for home health agencies to increase the volume of services delivered to patients, and it attracted many new agencies to the program.

From 1989 to 1996, Medicare home health payments grew with an average annual increase of 33 percent, while the number of home health agencies swelled from about 5,700 in 1989 to more than 10,000 in 1997.

In response to this rapid cost growth and concerns about program abuses, the BBA included a number of changes to home health care. Congress and the Administration supported moving toward a Prospective Payment System (PPS). In order for HCFA to move to a PPS, however, a number of computer system changes were necessary with respect to their home health operations. The interim payment system (IPS) was developed to manage reimbursement until the PPS could be implemented.

Significant Medicare payment issues for home health care have emerged from our analysis from the impact of the IPS. There are severe equity issues in payment limit levels both across states and within states. These wide disparities are exacerbated by a major distinction drawn in payment rules between so-called "new" versus "old" agencies. "Old" agencies being those that were in existence prior to 1993, and "New" agencies those in existence since then.

The effects of the current home health payment methodology are that similar agencies providing similar services in the same community face very different reimbursement limits, leading to highly arbitrary payment differences.

The payment limit issues will deepen significantly more in 1999 due to a scheduled 15% cut in already tight and severely skewed payment limit levels. Further, the prospective payment system scheduled to go on-line in October, 1999, will be delayed by several months to one year, because of year 2000 computer programming problems, according to the Health Care Financing Administration.

This legislation takes several steps to improve the Medicare home health care IPS and addresses the 15% cut.

First, it increases equity by reducing the extreme variations in payment limits applicable to old agencies within states and across states. This is achieved through a budget-neutral blend for "old" agencies.

Second, it increases fairness by reducing the artificial payment limit differences between "old" and "new" agencies. Such distinctions are contributing to the perception of arbitrariness in the home health care system. And, our proposal does not create additional classes of home health agencies, such as "new-new" agencies subject to even deeper, arbitrary payment limits in the future. Restricting new entrants to home health care is an inappropriate barrier to entry in underserved areas—both in rural and inner city areas. In the legislation, greater fairness is achieved by eliminating the 2 percent discount applicable to new agencies, and raising the per visit limits for all agencies from 105 percent to 110 percent of the national median.

Third, the proposal lengthens the transition period for payment changes by providing all agencies a longer transition period in which to adjust to changed payment limits. It creates a sustainable fiscal base for the statutorily mandated prospective payment system (PPS) by delaying the scheduled 15 percent cut and the PPS for one year.

The following is a summary of the Medicare Home Health Fair Payment Act of 1998:

PER BENEFICIARY LIMITS

1. "Old" agency: payment is a blended formula equal to 50 percent BBA policy + 50 percent (50 percent national mean + 50 percent regional mean); and

2. "New" agency: payment is increased by 2 percent to equal 100 percent of the national median, (which continues to be regionally adjusted for wages).

PER VISIT LIMITS

3. Increase the per visit limits from 105 percent to 110 percent of the median.

DELAY BOTH THE 15 PERCENT ACROSS-THE-BOARD CUTS AND THE PPS

4. Delay of the 15 percent across-the-board cuts in payment limits and the implementation of the prospective payments system now scheduled to take effect on October 1, 1999.

DESCRIPTION OF OFFSET POLICIES

1. Reduce the home health care annual market basket (MB) in the following manner: for fiscal year 2000 it is MB minus 0.5 percentage point; for FY 2001 it is MB minus 0.5 percentage point; for FY 2002 and FY 2003 it is full MB; and in FY 2004 it is MB plus 1.0 percentage point. Savings of $300 million over 5 years.

2. Non-Controversial Revenue Raisers—Revenues of $406 million over 5 years.

a. Math Error Procedures—This provision would clarify the math error procedures that the IRS uses.