taxes, and for other purposes; to the Committee on Governmental Affairs.

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

S. 2212. A bill to amend title V of the Trade Act of 1974 to include unwrought titanium as an article that may not be designated as an eligible article under the Generalized System of Preferences; to the Committee on Finance.

By Mr. FRIST (for himself, Mr. WYDEN, Mr. KERREY, Mr. DEWINE, Mr. GLENN, Mr. KEMPTHORNE, Mr. FORD, Mr. HELMS, Mr. GRASSLEY, Mr. ROTH, Ms. COLLINS, and Mr. SMITH of Oregon):

S. 2213. A bill to allow all States to participate in activities under the Education Flexibility Partnership Demonstration Act; to the Committee on Labor and Human Resources.

By Mr. LOTT (for himself, Mr. COVERDELL, Mr. CRAIG, Mr. THURMOND, Mr. COATS, Mr. INHOFE, Mr. STEVENS, Mr. GRAMM, Mr. MCCONNELL, Mr. THOMAS, Mr. KEMPTHORNE, Mr. BURNS, Mr. CAMPBELL, Mr. HUTCHINSON, Mr. KYL, Mr. ABRAHAM, Mr. ALLARD, Mr. COCHRAN, Mr. GREGG, Mr. SMITH of New Hampshire, Mr. GRAMS, Mr. ROBERTS, Mr. THOMPSON, Mr. ASHCROFT, Mr. MACK, Mr. HAGEL, Mr. D'AMATO, Mr. MCCAIN, Mr. BENNETT, Mr. FRIST, Mr. HATCH, Mr. GRASSLEY, Mr. MURKOWSKI, and Mr. SESSIONS):

S. 2214. A bill to amend the Internal Revenue Code of 1986 to reduce individual capital gains tax rates; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. AKAKA:

S. Res. 254. A resolution expressing the sense of the Senate that the United States has enjoyed the loyalty of the United States citizens of Guam, and that the United States recognizes the centennial anniversary of the Spanish-American War as an opportune time for Congress to reaffirm its commitment to increase self-government consistent with self-determination for the people of Guam; to the Committee on Energy and Natural Resources.

By Mr. D'AMATO:

S. Con. Res. 105. A concurrent resolution expressing the sense of the Congress regarding the culpability of Slobodan Milosevic for war crimes, crimes against humanity, and genocide in the former Yugoslavia, and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. MURRAY (for herself, Mr. KENNEDY, Mr. DODD, Mr. DASCHLE, Ms. MOSELEY-BRAUN, Mrs. BOXER, Mr. LEVIN, Mr. ROBB, Mr. LIEBERMAN, Mr. REED, Mr. LAUTENBERG, Ms. LANDRIEU, Mr. TORRICELLI, Mr. BRYAN, Mr. KERRY, Mr. AKAKA, Mr. GLENN, Mr. BINGAMAN and Ms. MIKULSKI):

S. 2209. A bill to reduce class size in the early grades and to provide for teacher quality improvement; to the Committee on Labor and Human Resources.

CLASS-SIZE REDUCTION AND TEACHER QUALITY ACT OF 1998

Mrs. MURRAY. Mr. President, today I send to the desk legislation to help school districts hire 100,000 well-prepared teachers to combat overcrowding in our nation's classrooms. Few issues are more important to the American family than the quality of our public schools. With challenges like illiteracy, poor work and study skills, and the threat of student violence, what we need are strategies that work to produce results for all students. Increasing the number of well-qualified teachers to reduce class size is an effort that works.

The research is clear, and the research only backs up what our school communities have long known, that class size reduction improves student achievement. Unlike vouchers and tax schemes that don't provide the benefits for schools or students that they claim—class size reduction works, and it benefits all students.

Public education is important to the American people, and has been since the beginning of our nation. The public school is one of the most effective self-betterment tools in the history of this country.

But this bastion of democracy is threatened when public expectation changes, and the public school is not allowed to follow the public will. There was a time not long ago when people with a high school diploma or people who had not graduated from high school could still participate meaningfully in our economy. Those times have changed.

Americans expect public schools to educate all students to a higher standard, and expect a high school diploma to be accurate assurance that a graduate knows and can do what it takes to succeed in higher education and in today's economy. Most teachers in most classrooms do a good job—and some are clearly gifted.

But many teachers, excellent in other ways, lack the training, preparation, and know-how to teach reading in ways that reflect the best research. Many otherwise skilled teachers need help to teach today's skills with today's technology. And any teacher has a difficult time getting youngsters ready for today's world when there are more than 30 children in a classroom.

So the class size reduction bill I'm introducing today puts the funds in the hands of local school districts to train teachers in effective practices, to get uncertified teachers up to certification standards, to provide mentor teachers for teachers who need it, and to improve teacher recruiting.

Improving class size is an investment in our future that we know will pay dividends. This proposal is still building momentum in Congress. Twice now, this class size proposal has been voted on this year, and the last time it was one vote away from passage. The public is aware that efforts such as the Coverdell IRA proposal do not provide results even for the few students they are targeted to help. Ask any parent or student, and they'll tell you class size reduction works for all students.

The President had originally talked about funding class size reduction with tobacco revenues, but class size improvement was left out of the bill that left the Commerce Committee.

With or without a tobacco bill, we can pass the class size improvement initiative and keep a balanced budget. In the President's budget request, there are still more than $20 billion in mandatory and tax offsets we have not yet used. There are several ways to fund a class size initiative, keep a balanced budget, and provide in one action real results for all students.

Also, as I've mentioned before, this really is an issue of priorities. Yesterday, the House Appropriations Committee took a meat cleaver to social programs, such as elimination of the summer jobs for teenagers, and winter heating assistance for elderly people in harsh winter climates. This year, thanks to the tough decisions I and others here made in 1993 and other factors, we are looking at a balanced budget.

Now more than ever, the American people priorities are what matter, and they must be reflected in our funding decisions. These are their federal tax dollars we are investing, and education is a much higher priority to most Americans than the two percent of spending it currently holds.

We have been sending out and continue to send funds to communities so they can hire 100,000 police officers. The communities which have hired these officers have responded with enthusiasm. Allowing school districts to hire 100,000 teachers to school districts will do the same thing—invigorate both the local school district they affect, and the state governments who can fund class size improvement on a greater scale.

The American people want their national investments to be common sense solutions that work. They want to see national initiatives jump-start real improvements in their local school. They want better teachers, and smaller class sizes. They want to know that when their child goes to school next fall, they are going to get good answers to their perennial questions: ''Who's your teacher, and how many kids are in your class?''

By Mr. DURBIN:

S. 2210. A bill to amend the Immigration and Nationality Act with respect to the requirements for the admission of nonimmigrant nurses who will practice in health professional shortage areas; to the Committee on the Judiciary.

NURSING RELIEF FOR DISADVANTAGED AREAS ACT OF 1998

● Mr. DURBIN. Mr. President, Today I introduce the Nursing Relief for Disadvantaged Areas Act of 1998. Today,

some of our nation's poorest rural and inner-city communities face a crisis—they may soon have inadequate or no hospital health care because nurses are unwilling to work in these neighborhoods. The Nursing Relief Act will ensure that hospitals located in these desperately under served areas can continue to provide adequate health care to our most needy communities.

Hospitals located in underprivileged areas often experience severe difficulty in attracting nurses. These hospitals operate in the middle of some of the harshest poverty and crime in our country. The employees of these hospitals often treat the worst and most troubling cases.

And, the condition of the surrounding area imperils the ability of these hospitals to recruit and maintain an adequate nursing staff. These circumstances have pushed some hospitals into a financial crisis, threatening the quality of health care to those most in need.

For the past eight years, this problem has been addressed by the H(1)(a) visa program which has allowed these hospitals to hire nonimmigrant nurses. Unfortunately, the H(1)(a) visa program sunset last fall, and so once again such hospitals are in crisis. By replacing the H(1)(a) visa, the Nursing Relief Act will alleviate this crisis.

The true beneficiary of this program will not be the hospitals, but the underprivileged communities which rely on the hospitals' services. Let me tell you a story about the role that this program can play in the health of a community. The story is about St. Bernard hospital on the South Side of Chicago.

St. Bernard Hospital is the only remaining hospital in the Englewood community on the south side of Chicago, one of the poorest and most crime ridden neighborhoods in the country. Over the years, St. Bernard has become indispensable to its community. Even though it has not been designated as a trauma center, St. Bernard receives the second highest number of ambulance runs from the Chicago Fire Department. St. Bernard also provides free vision exams and free screening for blood pressure, cholesterol, diabetes, and sickle cell anemia. In addition, schoolchildren receive free physicals and inoculations, and the hospital sponsors numerous health fairs throughout the area.

St. Bernard also offers a great number of outreach and community services. A food pantry is stocked, and clothes are made available for patients in need. St. Bernard is sponsoring a project for affordable housing in the community. The hospital has opened four family clinics in Englewood to provide safe and easy access to health care for community residents. Physicians from St. Bernard visit senior housing facilities on a regular basis, and the hospital has been recognized by Catholic Charities for its work with senior housing and health care.

In addition, St. Bernard is the largest employer in the Englewood area. When the hospital faces a crisis, many jobs in the community are placed at risk.

Even though the health of Englewood relies on this hospital, St. Bernard almost had to close its doors in 1992. Even after aggressive recruitment efforts, the hospital was unable to attract enough health care professionals to maintain its services. The hospital was especially in need of registered nurses.

The problem had been solved in part by hiring foreign nurses through the H(1)(a) visa program. The hospital had gone through great lengths to hire domestic nurses, and was using the h(1)(a) program only as a last alternative to closing its doors.

In the first half of 1997, for example, the hospital placed want ads in the Chicago Tribune and received approximately 200 responses. However, almost 75 percent of the respondents declined to interview when they learned where the hospital was located. St. Bernard has also tried to hire nurses through nurse registries. However, the rates of the registries would cost the hospital more than $2 million each year, an unsustainable expense for an already financially burdened hospital.

Clearly, the H(1)(a) visa program had been offering St. Bernard a way to maintain its service to the community when no other option was available. This past fall, even that option was eliminated.

My measure, the Nursing Relief Act, will ensure that hospitals like St. Bernard can keep their doors open to the public and continue to support their community. In addition, however, my bill has been designed to protect the jobs of domestic nurses and to ensure that hospitals use the visa program faithfully and only as a last resort solution.

I have therefore drafted the Nursing Relief Act to be more narrowly targeted than the old H(1)(a) visa program. My measure ensures that nurses can only be brought into the United States by hospitals that have no other alternative. In short, we have made every effort to ensure that no American nurse will lose his or her job as a result of my bill. While we want to assure that these hospitals have an adequate nursing staff, we must also guarantee that foreign nurses are not taking away jobs from domestic nurses.

Let me tell you what my bill does:

It establishes a nonimmigrant classification for nurses in health professional shortage areas. The program provides non-immigrant visas for 500 nurses each year to work in hospitals where there are severe nursing shortages.

The Nursing Relief Act protects the jobs of domestic nurses in three separate ways:

First, my measure requires that a hospital must certify that it has gone through great lengths to hire and retain domestic nurses before it can use this visa program to hire non-immigrant nurses.

Second, my measure requires that nonimmigrant nurses must be paid the same wages and work under the same conditions as domestic nurses. In addition, nonimmigrant nurses cannot be hired in order to disrupt the activities of labor unions. These provisions ensure that hospitals cannot undercut the working conditions of domestic nurses.

And third, my measure limits the number of nonimmigrant nurses who may enter the United States in any given year. The Act provides spaces for only 500 nonimmigrants each year, and it caps the number of nurses who may enter each state.

In addition, the Nursing Relief Act provides for serious penalties for abuse, thus ensuring that hospitals will not misuse this new visa category. Moreover, my bill guarantees that hospitals use this program faithfully by narrowly defining the hospitals which are eligible. In order to hire nonimmigrant nurses through this visa program, hospitals must fulfill four strict requirements:

First, the hospital must be located in an area which has been defined by the Department of Health and Human Services as having a shortage of health care professionals.

Second, the hospital must have at least 190 acute care beds.

Third, the hospital must have at least 35 percent of its in-patient days reimbursed by Medicare.

Fourth, the hospital must have at least 28 percent of its in-patient days reimbursed by Medicaid.

All of these measures ensure that the Nursing Relief Act will serve as a relief to our communities rather than a loophole in the immigration laws.

Thank you, Mr. President, for the opportunity to introduce this important and very timely initiative. I hope that my colleagues will join me and support the Nursing Relief for Disadvantaged Areas Act of 1998 so that every hospital can maintain an adequate nursing staff regardless of its location.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 2210

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 ''Nursing Relief for Disadvantaged Areas Act of 1998.''

SECTION 2. REQUIREMENTS FOR ADMISSION OF NON-IMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREA DURING 4-YEAR PERIOD.

(a) ESTABLISHMENT OF A NEW NONIMMIGRANT CLASSIFICATION FOR NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS—Section 101(a)(15)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking ''; or'' at the end and inserting the following: '', or (c) who is coming temporarily

to the United States to perform services as a registered nurse, who meets the qualifications described in section 212(m)(1), and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that an unexpired attestation is on file in effect under section 212(m)(2) for the facility (as defined in section 212(m)(6)) for which the alien will perform the services; or''

(b) REQUIREMENTS—Section 212(m) of the Immigration and Nationality Act (8 U.S.C. 1182(m)) is amended to read as follows:

''(m)(1) The qualifications referred to in section 101(a)(15)(H)(i)(c), with respect to alien who is coming to the United States to perform nursing services for a facility, are that the alien—

''(A) has obtained a full and unrestricted license to practice professional nursing in the country where the alien obtained nursing education or has received nursing education in the United States;

''(B) has passed an appropriate examination (recognized in regulations promulgated in consultation with the Secretary of Health and Human Services) or has a full and unrestricted license under State law to practice professional nursing in the State of intended employment; and

''(C) is fully qualified and eligible under the laws (including such temporary or interim licensing requirements which authorize the nurse to be employed) governing the place of intended employment to engage in the practice of professional nursing as a registered nurse immediately upon admission to the United States and is authorized under such laws to be employed by the facility.

''(2)(A) The attestation referred to in section 101(a)(15)(H)(i)(c), with respect to a facility for which an alien will perform services, is an attestation as to the following:

''(i) The facility meets all the requirements of paragraph (6).

''(ii) The employment of the alien will not adversely affect the wages and working conditions of registered nurses similarly employed.

''(iii) The alien employed by the facility will be paid the wage rate for registered nurses similarly employed by the facility.

''(iv) The facility has taken and is taking timely and significant steps designed to recruit and retain sufficient registered nurses who are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses.

''(v) There is not a strike or lockout in the course of a labor dispute, the facility has not laid off registered nurses within the previous year other than termination for cause, and the employment of such an alien is not intended or designed to influence an election for a bargaining representative for registered nurses of the facility.

''(vi) At the time of the filing of the petition for registered nurses under section 101(a)(15)(H)(i)(c), notice of the filing has been provided by the facility to the bargaining representative of the registered nurses at the facility or, where there is no such bargaining representative, notice of the filing has been provided to the registered nurses employed at the facility through posting in conspicuous locations.

''(vii) The facility will not, at any time, employ a number of aliens issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(c) that exceeds 33 percent of the total number of registered nurses employed by the facility.

''(viii) The facility will not, with respect to any alien issued a visa or otherwise provided non-immigrant status under section 101(a)(15)(H)(i)(c)—

''(I) authorize the alien to perform nursing services at any worksite other than a worksite controlled by the facility; or

''(II) transfer the place of employment of the alien from one worksite to another.

Nothing in clause (iv) shall be construed as requiring a facility to have taken significant steps described in such clause before the date of the enactment of the Health Professional Shortage Area Nursing Relief Act of 1998. A copy of the attestation shall be provided, within 30 days of the date of filing, to registered nurses employed at the facility on the date of the filing.

''(B) For purposes of subparagraph (A)(iv), each of the following shall be considered a significant step reasonably designed to recruit and retain registered nurses:

''(i) Operating a training program for registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere.

''(ii) Providing career development programs and other methods of facilitating health care workers to become registered nurses.

''(iii) Paying registered nurses wages at a rate higher than currently being paid to registered nurses similarly employed in the geographic area.

''(iv) Providing adequate support services to free registered nurses from administrative and other non-nursing duties.

''(v) Providing reasonable opportunities for meaningful salary advancement by registered nurses.

The steps described in this subparagraph shall not be considered to be an exclusive list of the significant steps that may be taken to meet the conditions of subparagraph (A)(iv). Nothing in this subparagraph shall require a facility to take more than one step if the facility can demonstrate, and the Attorney General determines, that taking a second step is not reasonable.

''(C) Subject to subparagraph (E), an attestation under subparagraph (A)—

''(i) shall expire on the date that is the later of

''(I) the end of the one-year period beginning of the date of its filing with the Secretary of Labor; or

''(II) the end of the period of admission under section 101(a)(15)(H)(i)(c) of the last alien with respect to whose admission it was applied (in accordance with clause (ii)); and

''(ii) shall apply to petitions filed during the one-year period beginning on the date of its filing with the Secretary of Labor if the facility states in each such petition that it continues to comply with the conditions in the attestation.

''(D) A facility may meet the requirements under this paragraph with respect to more than one registered nurse in a single petition.

''(E)(i) The Secretary of Labor shall compile and make available for public examination in a timely manner in Washington, D.C., a list identifying facilities which have filed petitions for nonimmigrants under section 101(a)(15)(H)(i)(c) and, for each such facility, a copy of the facility's attestation under subparagraph (A) (and accompanying documentation) and each such petition filed by the facility.

''(ii) The Secretary of Labor shall establish a process, including reasonable time limits, for the receipt, investigation, and disposition of complaints respecting a facility's failure to meet conditions attested to or a facility's misrepresentation of a material fact in an attestation. Complaints may be filed by any aggrieved person or organization (including bargaining representatives, associations deemed appropriate by the Secretary, and other aggrieved parties as determined under regulations of the Secretary). The Secretary shall conduct an investigation under this clause if there is reasonable cause to believe that a facility fails to meet conditions attested to. Subject to the time limits established under this clause, this subparagraph shall apply regardless of whether an attestation is expired or unexpired at the time a complaint is filed.

''(iii) Under such process, the Secretary shall provide, within 180 days after the date such a complaint is filed, for a determination as to whether or not a basis exists to make a finding described in clause (iv). If the Secretary determines that such a basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint within 60 days of the date of the determination.

''(iv) If the Secretary of Labor finds, after notice and opportunity for a hearing, that a facility (for which an attestation is made) has failed to meet a condition attested to or that there was a misrepresentation of material fact in the attestation, the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $1,000 per nurse per violation, with the total penalty not to exceed $10,000 per violation) as the Secretary determines to be appropriate. Upon receipt of such notice, the Attorney General shall not approve petitions filed with respect to a facility during a period of at least one year for nurses to be employed by the facility.

''(v) In addition to the sanctions provided for under clause (iv), if the Secretary of Labor finds, after notice and an opportunity for a hearing, that a facility has violated the condition attested to under subparagraph (A)(iii) (relating to payment of registered nurses at the prevailing wage rate), the Secretary shall order the facility to provide for payment of such amounts of back pay as may be required to comply with such condition.

''(F)(i) The Secretary of Labor shall impose on a facility filing an attestation under subparagraph (A) a filing fee, in an amount prescribed by the Secretary based on the costs of carrying out the Secretary's duties under this subsection, but not exceeding $250.

''(ii) Fees collected under this subparagraph shall be deposited in a fund established for this purpose in the Treasury of the United States.

''(iii) The collected fees in the fund shall be available to the Secretary of Labor, to the extent and in such amounts as may be provided in appropriations Acts, to cover the costs described in clause (i), in addition to any other funds that are available to the Secretary to cover such costs.

''(3) The period of admission of an alien under section 101(a)(15)(H)(i)(c) shall be 3 years.

''(4) The total number of nonimmigrant visas issued pursuant to petitions granted under section 101(a)(15)(H)(i)(c) in each fiscal year shall not exceed 500. The number of petitions granted under section 101(a)(15)(H)(i)(c) for each State in each fiscal year shall not exceed the following:

''(A) For States with populations of less than 10,000,000 based upon the 1990 decennial census of population, 25 petitions.

''(B) For States with populations of 10,000,000 or more, based upon the 1990 decennial census of population, 50 petitions.

''(5) A facility that has filed a petition under section 101(a)(15)(H)(i)(c) to employ a nonimmigrant to perform nursing services for the facility.

''(A) shall provide the nonimmigrant a wage rate and working conditions commensurate with those of nurses similarly employed by the facility;

''(B) shall require the nonimmigrant to work hours commensurate with those of nurses similarly employed by the facility; and

''(C) shall not interfere with the right of the nonimmigrant to join or organize a union.

''(6) For purposes of this subsection and section 101(a)(15)(H)(i)(c), the term 'facility' means a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) that meets the following requirements;

''(A) As of March 31, 1997, the hospital was located in a health professional shortage area (as defined in section 332 of the Public Health Service Act (42 U.S.C. 254e)).

''(B) Based on its settled cost report filed under title XVIII of the Social Security Act for its costs reporting period beginning during fiscal year 1994—

''(i) the hospital has not less than 190 licensed acute care beds;

''(ii) the number of the hospital's inpatient days for such period which were made up of patients who (for such days) were entitled to benefits under part A of such title is not less than 35 percent of the total number of such hospital's acute care inpatient days for such period; and

''(iii) the number of the hospital's inpatient days for such period which were made up of patients who (for such days) were eligible for medical assistance under a State plan approved under title XIX of the Social Security Act, is not less than 28 percent of the total number of such hospital's acute care inpatient days for such period.''.

(c) REPEALER.—Clause (i) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking subclause (a).

(d) IMPLEMENTATION.—Not later than 90 days after the date of enactment of this Act, the Secretary of Labor (in consultation, to the extent required, with the Secretary of Health and Human Services) and the Attorney General shall promulgate final or interim final regulations to carry out section 212(m) of the Immigration and Nationality Act (as amended by subsection (b)).

(e) LIMITING APPLICATION OF NONIMMIGRANT CHANGES TO 4-YEAR PERIOD.—The amendments made by this section shall apply to classification petitions filed for nonimmigrant status only during the 4-year period beginning on the date that interim or final regulation are first promulgated under subsection (d).

SEC. 3. RECOMMENDATIONS FOR ALTERNATIVE REMEDY FOR NURSING SHORTAGE

Not later than the last day of the 4-year period described in section 2(e), the Secretary of Health and Human Services and the Secretary of Labor shall jointly submit to the Congress recommendations (including legislative specifications) with respect to the following:

(1) A program to eliminate the dependence of facilities described in section 212(m)(6) of the Immigration and Nationality Act (as amended by section 2(b)) on nonimmigrant registered nurses by providing for a permanent solution to the shortage of registered nurses who are United States citizens or aliens lawfully admitted for permanent residence.

(2) A method of enforcing the requirements imposed on facilities under sections 101(a)(15)(H)(i)(c) and 212(m) of the Immigration and Nationality Act (as amended by section 2) that would be more effective than the process described in section 212(m)(2)(E) of such Act (as so amended).●

By Mr. ASHCROFT:

S. 2211. A bill to amend title 5, United States Code, to provide for Congressional Review of rules establishing or increasing taxes, and for other purposes; to the Committee on Governmental Affairs.

TAXPAYER'S DEFENSE ACT

● Mr. ASHCROFT. Mr. President, today I introduce the Taxpayer's Defense Act. Quite simply, this bill prohibits any agency from establishing a tax on the American people.

Mr. President. As we all know, the United States was founded on one simple and fundamental principle—no taxation without representation.

''In the Second Treatise of Government,'' John Locke said, ''if anyone shall claim a power to lay and levy taxes on the people . . . without . . . consent of the people, he thereby . . . subverts the end of government.'' According to Locke, consent required agreement by a majority of the people, ''either by themselves or their representatives chosen by them.'' The Declaration of Independence listed, among the despotic acts of King George, his ''imposing taxes on us without our consent.''

The Boston Tea Party remains the symbol of Americans' opposition to taxation without representation. The Constitutional authority—given only to Congress—to establish federal taxes is clear. Its reasoning also is clear. It is the Congress that represents the people. Only Congress considers and weighs every issue that rises to national importance. While Federal agencies consider their own priorities to be paramount, only Congress can determine which goals merit a tax on the American people.

The modern era of restricted federal budgets, however, threatens to erode the essential principle of ''no taxation without representation.'' In many subtle and often hidden ways, federal agencies are receiving from Congress the power to tax.

They tax by adding unnecessary charges to legitimate government user fees. They tax through federal mandates. These taxes pass the cost of government on to the American people—without their knowledge.

The worst example of administrative taxation is the Federal Communications Commission's Universal Service Tax. ''Universal service'' is the idea that everyone should have access to affordable telecommunications services. It originated at the beginning of the century when the first national telecommunications service was still being created. This idea was expanded in the Telecommunications Act of 1996, which allowed the FCC to extend universal service funds to provide ''discount telecommunications services'' to schools, libraries, and rural health care facilities.

Most importantly, the Act gave the FCC the power to decide the level of ''contributions''—taxes—that telecommunications companies would have to pay to support universal service. The FCC now determines how much must be collected in taxes that subsidize a variety of 'universal service' spending programs. Long distance providers pass the costs on to consumers in the form of higher telephone bills. In the first half of 1998, the tax was $625 million, and the Clinton Administration's budget projects it will rise to $10 billion per year. This administrative tax is already out of control.

This is possible because Congress delegated its authority to tax. The FCC is able to collect taxpayer dollars at levels it sets—without approval from Congress or the people. The FCC can defy Congress and the people because it has the power to levy taxes.

Mr. President, some people thought the tax and spend liberals had left Washington. Not so. Washington interest groups who want to feed at this new federal trough already are geared up to accuse the Republican Congress of cutting funding for education and health care if any attempt is made to rein in the FCC. They will frame the issue as a matter of federal entitlements for sympathetic causes and groups.

The most sympathetic group is the American taxpayer, whose money is being taken, laundered through the Washington bureaucracy, and returned for purposes set by unelected Washington Bureaucrats. This is why the FCC must be required to get the approval of Congress before setting future tax rates.

Should tax dollars be used for federal universal service programs and what amounts or should Americans spend what they earn on their own, real, local priorities? Requiring Congress to review any administrative taxes would answer this question.

My bill would create a new section to the Congressional Review Act for mandatory review of certain agency rules. Any rule that establishes or raises a tax would have to be submitted to and receive the approval of Congress before taking effect. In essence, the Act would disable agencies from setting taxes, but would allow them to formulate proposals under existing rulemaking procedures.

Once submitted to Congress, a taxing regulation would be introduced in both the House and Senate by the Majority Leader. The rule would then be subject to expedited procedures, allowing a prompt decision on whether or not to approve a rule. The rule would have to be approved by both Houses and signed by the President.

Congress must not allow a federal agency—unelected and unaccountable federal bureaucrats—to determine the amount of taxes hardworking Americans must pay. The Taxpayer's Defense Act will require Congress to stand up and face the American people when it decides to tax. The cry of ''no taxation without representation'' has gone up in the land before, and today we are hearing it again. It is time that we respond.●

By Mr. FRIST (for himself, Mr. WYDEN, Mr. KERREY, Mr.

DEWINE, Mr. GLENN, Mr. KEMPTHORNE, Mr. FORD, Mr. HELMS, Mr. GRASSLEY, Mr. ROTH, Ms. COLLINS, and Mr. SMITH of Oregon):

S. 2213. A bill to allow all States to participate in activities under the Education Flexibility Partnership Demonstration Act; to the Committee on Labor and Human Resources.

THE EDUCATION FLEXIBILITY AMENDMENTS OF 1998

● Mr. FRIST. Mr. President, today I introduce, with my colleague from Oregon, Senator WYDEN, the Education Flexibility Amendments of 1998. This bipartisan measure will expand the immensely popular and highly successful Ed-Flex program to all 50 states in the country. As you may know, Ed-Flex is currently a demonstration program, available only to 12 states. Under the Frist-Wyden bill, all states would be allowed to participate in the program and the 12 original states would be permitted to expand Ed-Flex waiver authority to include programs under the Adult Education and Technology for Education Acts.

As the Chairman of the Senate Budget Committee Task Force on Education, formed by Budget Chairman PETE DOMENICI, I heard first-hand accounts of the success of the Ed-Flex program and the need for flexibility for our states that are overburdened by federal requirements. The Commissioner of the Florida Department of Education, Frank Brogan, told the Task Force that it takes 297 state employees to oversee and administer $1 billion in federal funds. In contrast, only 374 employees oversee approximately $7 billion in state funds. Thus, it takes six times as many people to administer a federal dollar as a state dollar.

Brogan went on to say:

We at the State and Local level feel the crushing burden caused by too many Federal regulations, procedures, and mandates. Florida spends millions of dollars every year to administer inflexible, categorical Federal programs that divert precious dollars away from raising student achievement.

This must change.

Secretary Riley told the Task Force that, ''through our Ed-Flex demonstration initiative, we are giving State-level officials broad authority to waive federal requirements that present an obstacle to innovation in their schools.'' The Department of Education further notes, '' Ed-Flex can help participating states and local school districts use federal funds in ways that provide maximum support for effective school reform based on challenging academic standards for all students.''

The National Governors Association has expressed its strong support for the expansion of Ed-Flex. At the NGA Winter Meeting, the Governors expressed their interest in expanding Ed-Flex to all 50 states. At this same meeting, President Clinton also expressed his support for Ed-Flex expansion.

I pose the following question to my colleagues: who isn't for expanding Ed-Flex?

Numerous articles have highlighted the innovative reform efforts underway in the Chicago Public School System and have extolled its early successes. Illinois is an Ed-Flex state. Cozette Buckney of the Chicago School System attributes much of the Chicago success to flexibility—the very flexibility offered to states and localities by Ed-Flex. She pleaded, ''Let us be accountable to you for getting the results, but give us the flexibility to do it the way that works best for us.''

According to other Chicago officials:

One of the frustrating things with Federal assistance that has come in through this process is we oftentimes find our way saying how can we do what we want to do and how can we use federal funding so that we can make sure that it is happening. Most of our initiatives are locally based, locally funded, locally developed by people who have been working in Chicago for many years. We know the system, and we believe we know the things that it needs to have happen in order to improve. So the more flexibility that we have with federal and states funds, the easier it is to make those changes.

During another Education Task Force hearing, we heard from Texas that they have granted over 4,000 waivers, largely to streamline the paperwork associated with administering and applying for the various federal programs. According to Texas Education Official Madeleine Manigold:

Ed-Flex has allowed Texas to foster the coordination of programs and streamlining of administration of programs that are actually operated by the United States Department of Education, while maintaining the underlying purpose of the covered federal programs.

Rest assured, though I support the concept of block grants to states as a means to achieve even greater flexibility, Ed-Flex expansion is NOT a block grant proposal. States may NOT pool funds from various federal education programs, and they must ensure that the underlying purposes of the program in question will continue to be met. Ed-Flex simply allows states some relief from the burgeoning mass of bureaucratic federal regulations and requirements in administering designated federal education programs.

It's time to bring some common sense to education reform. Ed-Flex is a good first step toward granting states and localities more flexibility in using federal funds in the most effective and efficient way possible. Our states and localities are the engines of change—let's give all of our states the freedom and capability to meet the challenges of education with innovation and creativity.

Mr. President, I believe that passage of this legislation is a strong first step for improving our public education system. Let's give states and localities the flexibility that they need to address the many needs of our students. I strongly urge passage of this bill. Mr. President, I unanimous consent that a letter of support from the National Governors' Association be printed in the RECORD.

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

NATIONAL GOVERNORS' ASSOCIATION,
NATIONAL CONFERENCE OF STATE LEGISLATURES

June 18, 1998.

Hon. BILL FRIST,
Hon. RON WYDEN,
United States Senate, Washington, D.C.

DEAR SENATORS FRIST AND WYDEN: We write on behalf of the nation's Governors and state legislatures to express our strong support for your efforts in the Senate to expand the highly successful Ed-Flex demonstration program to all fifty states during this Congress. States that participate in Ed-Flex have found that this program has been helpful in moving education reform forward in the 12 states that currently participate. Under the Wyden-Frist proposal, states currently participating in Ed-Flex would receive additional waiver authority and the bill would permit all states to become Ed-Flex states. We strongly support the expansion of this successful program.

While Ed-Flex is perceived to be a positive program because it provides states with greater flexibility, some members of Congress have questioned whether there are immediate benefits that Ed-Flex can provide to states. Some members have suggested a delay in expanding the Ed-Flex program to all fifty states until Congress reauthorizes the elementary and secondary programs in the next Congress. We know that this program has helped states and schools by giving them some limited waiver authority. With experiences of the 12 current Ed-Flex states as evidence, we know that the adverse predictions made about the Ed-Flex program when it was originally created have not materialized. With the Secretary of Education's guidance, this program has helped states and school districts do a better job. We need Ed-Flex now.

By expanding Ed-Flex during this congress, all states would have the opportunity to identify and waive regulations, and in the process, identify aspects of the statutes and the regulations that need to be changed or eliminated when the elementary and secondary education bills are reauthorized next year.

We applaud your current efforts and look forward to working with you toward the enactment of this legislation.

Sincerely,

GOVERNOR GEORGE V. VOINOVICH,
Chair, National Governors' Association.
GOVERNOR THOMAS R. CARPER,
Vice Chair, National Governors' Association.
DONNA SYTEK,
Speaker, New Hampshire House of Representatives,
Chair, National Conference of State Legislatures Assembly on Federal Issues.
LINDA FURNEY,
Assistant Minority Leader, Ohio Senate
Chair, National Conference of State Legislatures Committee on Education, Labor and Job Training.●

● Mr. WYDEN. Mr. President, I join together with Senator FRIST and ten other colleagues today to introduce bipartisan education reform legislation, based on a simple proposition: the federal government should liberate schools from the federal government's mandated bureaucratic water torture in return for schools committing to improve student performance. This bill is an invitation to innovation, an opportunity to develop home grown, locally

driven solutions to Americans biggest education challenges.

This legislation would empower states to get out from under burdensome federal education regulations, by expanding the enormously popular ''Ed-Flex'' demonstration program—in which 12 states already participate—into a nationwide effort. Ed-Flex is the program that allows states to waive out of certain federal regulations if they come up with a plan to show how they can do a better job. A State has to waive their own set of education regulations, develop high academic standards for their students and hold schools accountable for results.

Here is a brief example of how Ed-Flex works: In the past, federal funds have allowed schools to purchase computers for students with disabilities, but the rules prevented others from using the equipment when the students weren't using it. So in an Oregon school district, in return for committing to using the idle computers to improve adult education, the State got a waiver to use the computer for this extra use as well as for the disabled students.

Ohio uses a teacher training program that, without a waiver, can only be used to train teachers in math and science. Ohio wanted to use it where the greatest academic need is. They now have an Ed-Flex waiver and can tailor their teacher training program to the needs of the students, not to the needs of the federal government. In exchange, Ohio will have better prepared teachers in the classroom to help students improve in those areas.

My state also uses Ed-Flex to allow school districts to team up with community colleges to better prepare kids to go into the workforce. Using the Carl Perkins Vocational and Applied Technology Act program, Oregon students can earn college credit or learn a practical skill without worrying about whether a credit will transfer or if they have to file several different pieces of paperwork.

And even more kids will be able to benefit if we can expand Ed-Flex to allow school districts to streamline bureaucracies even further and eliminate waste. The bill Senator FRIST and I are introducing today will expand Ed-Flex from a pilot program in just a few states to every place from Maine to Honolulu. The bill will also provide a unique opportunity for current Ed-Flex states to experience more flexibility in their adult literacy and educational technology programs.

Let me give you an example of how the new flexibility will benefit my state. According to the National Adult Literacy Survey, Oregon has one of the highest literacy levels in the country. In fact, 75 percent of Oregonians have basic reading skills; that is, they can proficiently read, write and speak in English, whereas 55 percent of all adults in the nation achieved that level. Yet, for Oregonians, less than 100 percent is not good enough. We want all of our adults to have basic literacy skills. Under the Adult Education Act, a State can only use 20 percent of the funds to prepare people to make high school equivalency tests. That may work for a state that has a very low literacy level, but it does not work for Oregon.

Oregon would like to develop a waiver to use the funds to help all illiterate or semi-literate adults earn a GED (general education development) or other high school equivalency measure. The more people with a GED, the more valuable our workforce becomes. Under our Ed-Flex bill, Oregon would be eligible to apply for that waiver.

Mr. President, this bill grows out of the work of the Senate Budget Committee's Education Task Force, which Senator FRIST chaired, and on which I served. Together, in hearing after hearing, we listened to States tell us that they can do a better job. They said they could balance flexibility and accountability and they we ready to be judged by results, not process. We know as well that Ed-Flex has strong support from the Administration, and our bill has strong bipartisan support in the Senate and from the National Governors Association.

Oregon was the first state to participate in Ed-Flex, and people in Oregon are convinced that regulatory flexibility and school accountability work. It is time to expand that approach nationwide.●

ADDITIONAL COSPONSORS

S. 358

At the request of Mr. DEWINE, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 1046

At the request of Mr. JEFFORDS, the names of the Senator from Kansas [Mr. BROWNBACK] and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of S. 1046, a bill to authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes.

S. 1147

At the request of Mr. WELLSTONE, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1147, a bill to amend the Public Health Service Act, Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to provide for nondiscriminatory coverage for substance abuse treatment services under private group and individual health coverage.

S. 1529

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1529, a bill to enhance Federal enforcement of hate crimes, and for other purposes.

S. 1647

At the request of Mr. BAUCUS, the names of the Senator from Louisiana [Ms. LANDRIEU], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 1647, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 1734

At the request of Mrs. HUTCHISON, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Ohio [Mr. DEWINE] were added as cosponsors of S. 1734, a bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes.

S. 1825

At the request of Mrs. MURRAY, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 1825, a bill to amend title 10, United States Code, to provide sufficient funding to assure a minimum size for honor guard details at funerals of veterans of the Armed Forces, to establish the minimum size of such details, and for other purposes.

S. 1862

At the request of Mr. DEWINE, the names of the Senator from North Carolina [Mr. FAIRCLOTH] and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 1862, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 1917

At the request of Mr. DURBIN, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 1917, a bill to prevent children from injuring themselves and others with firearms.

S. 1927

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 1927, a bill to amend section 2007 of the Social Security Act to provide grant funding for 20 additional Empowerment Zones, and for other purposes.

S. 1929

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1929, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes.

S. 1971

At the request of Mr. COCHRAN, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Illinois [Mr. DURBIN] were added as cosponsors of S. 1971, a