

1 EXECUTIVE COMMITTEE MEETING TO CONSIDER THE NOMINATIONS  
2 OF RICHARD FISHER, TO BE DEPUTY UNITED STATES TRADE  
3 REPRESENTATIVE, WITH THE RANK OF AMBASSADOR; DONALD  
4 LUBICK, TO BE ASSISTANT SECRETARY OF THE TREASURY; PAIGE  
5 MARVEL, TO BE APPOINTED AS A JUDGE OF THE U.S. TAX COURT;  
6 AND, MICHAEL THORNTON, TO BE APPOINTED AS A JUDGE OF THE  
7 U.S. TAX COURT; AND TO VOTE ON THE CHAIRMAN'S MARK, IN  
8 THE NATURE OF A SUBSTITUTE, TO S. 1133  
9 TUESDAY, FEBRUARY 10, 1998  
10 U.S. Senate,  
11 Committee on Finance,  
12 Washington, DC.

13 The meeting was convened, pursuant to notice, at  
14 10:55 a.m., in room SD-215, Dirksen Senate Office  
15 Building, Hon. William V. Roth, Jr. (Chairman of the  
16 Committee) presiding.

Gilmour  
25 pp.

17 Also present: Senators Chafee, Grassley, Hatch,  
18 D'Amato, Murkowski, Nickles, Gramm, Lott, Jeffords,  
19 Moynihan, Baucus, Rockefeller, Breaux, Graham, Moseley-  
20 Braun, Bryan, and Kerrey.

21 Also present: Mr. Donald Lubick, Department of the  
22 Treasury; and Mark Prater, Chief Tax Counsel.

23 Also present: Lindy L. Paull, Staff Director and  
24 Chief Counsel; Mark A. Patterson, Minority Staff Director  
25 and Chief Counsel.

1           The Chairman.    Since we have a quorum present, I  
2    move that the committee favorably report the nominations  
3    of Richard Fisher, to be Deputy U.S. Trade  
4    Representative, with the rank of Ambassador; Donald  
5    Lubick, to be Assistant Secretary of the Treasury; Paige  
6    Marvel, to be appointed as a Judge of the U.S. Tax Court;  
7    and Michael Thornton, to be appointed as a Judge of the  
8    U.S. Tax Court.

9           Senator Moynihan.    I second the nomination.

10          The Chairman.    Thank you, Senator Moynihan.

11          If there is no objection, I ask that the full  
12    nominations be considered en bloc.

13          There being no objection, all those in favor say aye.

14          [Chorus of ayes]

15          The Chairman.    Those opposed, say nay.

16          [No response]

17          The Chairman.    The ayes have it.  The nominations  
18    will be reported.

19          Senator Chafee.    Mr. Chairman, we are welcoming back  
20    Mr. Lubick, who has been in various positions before us,  
21    I would say, for a good number of years.

22          Senator Moynihan.    Twenty years.  Twenty years.

23          Senator Chafee.    We welcome you back, Mr. Lubick.

24          Secretary Lubick.    Thank you very much.

25          The Chairman.    The committee will be in recess,

1 subject to the call of the Chair.

2 [Whereupon, at 10:56 the meeting was recessed.]

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1 AFTER RECESS

2 [12:26 p.m.]

3 The Chairman. I would ask Mark Prater to spell out  
4 the modified Chairman's mark.

5 Mr. Prater. Mr. Chairman, the modification contains  
6 three changes. One, is to raise the small issuer  
7 arbitrage rebate exception from, under current law, \$10  
8 million to \$15 million with respect to school  
9 construction, effective January 1, 1999.

10 The second element of the modification is to clarify  
11 the tax treatment of National Health Corps scholarships  
12 and also to clarify the treatment of after-school care  
13 with respect to the K-12 withdrawal feature. In  
14 addition, the foreign tax credit carry-over modification  
15 that is a revenue raiser would be adjusted for  
16 appropriate revenue purposes on the effective date.

17 The Chairman. Senator Moynihan?

18 Senator Moynihan. Could I ask what that last  
19 provision is? I do not know that we discussed it.

20 Mr. Prater. Senator Moynihan, I was referring to  
21 the revenue raiser that changes the carry-back rules on  
22 the foreign tax credit.

23 Senator Moynihan. What is the adjustment from the  
24 spread sheet?

25 Mr. Prater. We would be delaying the effective date

1 to December 31, 1999 for taxable years.

2 The Chairman. To when?

3 Mr. Prater. 1999. A one-year delay from the  
4 Chairman's mark.

5 Senator Moynihan. And the revenue effect is?

6 Mr. Prater. The provision will raise \$1.6 billion,  
7 roughly, over 5 years, and \$3.3 billion over 10 years.

8 The Chairman. Any further questions?

9 [No response]

10 The Chairman. If not, are there any amendments?

11 Senator D'Amato. Mr. Chairman, I would like to  
12 offer an amendment as far as the health plans providing  
13 coverage for minimum hospital stays for mastectomies and  
14 lymph node dissections, treatment of breast cancer, and I  
15 believe that the amendment has been circulated.

16 The Chairman. I must say that, regrettably, the  
17 Chair must rule the amendment offered by the Senator from  
18 New York non-germane under Committee Rule 2A. The very  
19 title of the amendment, Women's Health and Cancer Rights  
20 Act of 1997, reveals that the Senator has offered a  
21 health care amendment and not a tax amendment.

22 The fundamental purpose of the amendment is related  
23 to health care and not to the Chairman's mark. While it  
24 is true that part of the amendment amends the Tax Code,  
25 it is clear that the major portion of this amendment does

1 not.

2 Under Senate precedent, if any part of an amendment  
3 is non-germane the entire amendment must be held non-  
4 germane. Consequently, the Chair holds the amendment  
5 non-germane and out of order under Committee Rule 2A.

6 Senator D'Amato. Mr. Chairman, I would like to  
7 respectfully move to proceed to the amendment,  
8 notwithstanding the ruling of the Chair.

9 The Chairman. This requires a two-thirds vote to  
10 overrule the Chair.

11 Senator D'Amato. A question, Mr. Chairman. Would  
12 an aye vote be moving forward in moving the Chair?

13 The Chairman. Yes.

14 Senator D'Amato. All right. I ask for the yeas and  
15 nays.

16 The Chairman. The Clerk will call the roll.

17 Senator Baucus. Mr. Chairman?

18 The Chairman. I am sorry. Senator Baucus.

19 Senator Baucus. Mr. Chairman, I think the Senator  
20 from New York has a good idea. It is a good amendment.  
21 This is early in the session, I think, for the  
22 opportunities to address this issue, one that must be  
23 addressed. I support the Senator in his efforts, but I  
24 also support the Chairman in his ruling. We have to have  
25 rules around here. For that reason, I will support the

1 Chair.

2 The Chairman. I thank the distinguished Senator.

3 The Clerk will call the roll.

4 The Clerk. Mr. Chafee?

5 Senator Chafee. No.

6 The Clerk. Mr. Hatch?

7 Senator Hatch. Aye.

8 The Clerk. Mr. D'Amato?

9 Senator D'Amato. Aye.

10 The Clerk. Mr. Murkowski?

11 Senator Murkowski. Aye.

12 The Clerk. Mr. Gramm of Texas?

13 Senator Gramm. No.

14 The Clerk. Mr. Lott?

15 Senator Lott. No.

16 The Clerk. Mr. Jeffords.

17 Senator Jeffords. No.

18 The Clerk. Mr. Moynihan?

19 Senator Moynihan. Aye.

20 The Clerk. Mr. Baucus?

21 Senator Baucus. No.

22 The Clerk. Ms. Moseley-Braun.

23 Senator Moseley-Braun. Aye.

24 The Clerk. Mr. Bryan?

25 Senator Bryan. Aye.

1 The Clerk. Mr. Chairman?

2 The Chairman. No.

3 The Clerk. The votes are 6 yeas, 6 nays.

4 Senator D'Amato. I thank the Chair. I thank my  
5 colleagues for at least moving forward. I want to  
6 indicate that we will move forward on this and I intend  
7 to bring it to the floor. I thank my colleagues.

8 The Chairman. The vote will now be on reporting out  
9 the legislation, as modified.

10 Senator Rockefeller. Mr. Chairman?

11 The Chairman. Yes.

12 Senator Rockefeller. I apologize. We were at a  
13 Democratic leadership meeting and we did not even know  
14 about this going back in. So this is not me being  
15 deliberately tardy. If it is germane, I want to amend  
16 the Coverdale amendment. I want to try ~~do~~<sup>to</sup>.

17 Senator Moynihan. <sup>Mr. Chairman,</sup> I believe I mentioned that you  
18 would have one <sup>amendment</sup>.

19 Senator Rockefeller. Is that still in order?

20 The Chairman. Yes. Please proceed. We would ask  
21 you to do it very quickly, if you could, sir.

22 Senator Rockefeller. I will. But this is a very  
23 large piece of legislation and \$1 billion is a lot of  
24 money in West Virginia and other places. I think things  
25 like this deserve some consideration. I understand the



1 pressure.

2 But in any event, I think that the Coverdale  
3 amendment is aimed at an income level which is  
4 substantially higher than what we have in West Virginia  
5 and would not affect people like that who are all across  
6 the country, whether it is in New York, West Virginia, or  
7 Montana. I do not think that this really comes under the  
8 guise of educational reform because it is basically  
9 giving a break for those who have a higher income level.

10 So my amendment, Mr. Chairman, would be as follows  
11 and it would try to put this in basically the same  
12 context as the income level that we established for the  
13 child tax credit. It would not be exactly because of the  
14 number of children, but that is where we have aimed at.

15 So my amendment to modify S. 1133 would be to reduce  
16 the income phase-outs for education IRAs, fully phase the  
17 amount at \$110,000 for joint returns, \$75,000 for  
18 individual filers who are not married, \$55,000 for a  
19 married individual filing a single return.

20 Treasury feels very strongly about this, that this is  
21 not something which is going to help average families.  
22 They say it is going to help families that could do this  
23 anyway. I feel very strongly about the issue. I think  
24 it is a matter of equity. It has everything to do with  
25 fairness insofar as my people are concerned, and I

1 advance the amendment.

2 The Chairman. Well, I thank the Senator from West  
3 Virginia. I would say that this, too, is something that  
4 I am very much concerned about. I must oppose the  
5 decrease in the income limits for the phase-out of  
6 contributions to the education IRAs. I would point out  
7 that the limits we now have were negotiated in the  
8 legislation we enacted last year and I think should  
9 stand.

10 Now, last year when we established education IRAs the  
11 income limits were \$160,000 for married couples, \$110,000  
12 for single taxpayers. This amendment would significantly  
13 reduce the number of people who would be able to take  
14 advantage of this program, and I think that is  
15 unfortunate.

16 Further reductions, frankly, in the income limits  
17 will simply add more complexity and serve little purpose.  
18 The limits could be avoided by family gifts from those  
19 members above the income limits to those below the income  
20 limits. For these reasons, I oppose the amendment and  
21 urge my colleague to do the same.

22 Senator Breaux. Mr. Chairman?

23 The Chairman. Senator Breaux?

24 Senator Breaux. I would just like to ask a  
25 question. Are the limits in this proposal the same as

1 the existing Roth IRA bill that we did?

2 The Chairman. That is correct, yes.

3 Senator Breaux. So it is the same category.

4 The Chairman. Yes.

5 Senator Gramm?

6 Senator Gramm. I will be very, very brief. We have  
7 now one set of limits that apply across the board in all  
8 these programs and I think we ought to stay with that. I  
9 think we make the thing terribly complicated when we do  
10 not. How do you explain to people that, if the IRA is  
11 for retirement you have one income level, but if it is to  
12 send Johnny and Susie to college you have got another  
13 income level?

14 We have got a level which is now pretty much settled,  
15 and I hate getting into this deal where we are judging,  
16 if somebody makes \$56,000 a year, they ought not to have  
17 the ability on a tax-exempt basis or with the tax  
18 treatment of the thing to set aside money to send their  
19 child to college, where if they are above it they do not.

20 I think we ought to stay with one. I am very much  
21 persuaded by the argument that the same set of principles  
22 ought to apply to all IRAs. If you do this, you are  
23 moving toward lowering the thing for every single IRA,  
24 not just this one. I do not think we want to do it.

25 Senator Rockefeller. Would the Senator from Texas

1 yield? I am sorry.

2 The Chairman. Yes. We recognize you.

3 Senator Rockefeller. Thank you, Mr. Chairman.

4 You may or may not be correct vis-a-vis IRAs having a  
5 single sort of level for that, but, in fact, I think my  
6 amendment makes the general Tax Code a little bit simpler  
7 because instead of having different income limits for  
8 every kind of tax break, for example, one for child  
9 credit, one for educational IRAs, another one for child  
10 care credit which the President is talking about, et  
11 cetera, in other words, there are different ways of  
12 looking at an even number, and second, is not the point  
13 of this really, you say that this would make it available  
14 to more people, or the Chairman says it would make it  
15 available to more people. But are they the people who,  
16 in fact, really need this or they could not otherwise  
17 take advantage of it.

18 That is my point. By lowering the income level you  
19 make it available to people who need it as opposed to  
20 just saying, well, more people could take advantage of it  
21 because the people who might be able to take advantage of  
22 it might not actually need it.

23 The Chairman. Well, this was a matter of intense  
24 negotiation. It resulted in these figures because we  
25 felt strongly that there were those who needed

1 assistance. You take the City of New York. It is  
2 entirely different than a rural area. I have to agree  
3 with Phil Gramm, we really have negotiated this at very  
4 great length, very intensely, and I think it would be a  
5 mistake to try to undo what was agreed to last year.

6 Senator Baucus. Mr. Chairman?

7 The Chairman. Yes, Senator Baucus.

8 Senator Baucus. Mr. Chairman, I wonder if the  
9 Treasury could comment on this amendment from the point  
10 of view of the administration, or complexity and the  
11 administration of the Code.

12 Secretary Lubick. From the point of view of the  
13 administration, there are already differences in income  
14 limits between the deductible IRAs and the Roth IRAs. So  
15 you do not have uniformity.

16 Our concern, of course, is with the progressivity  
17 question. In an expenditure of this type, we think it  
18 should not be one that is overwhelmingly going to those  
19 persons that are generally able to afford these  
20 expenditures, and our revenue tables indicate that about  
21 75 percent of the benefit of the bill as introduced does  
22 go to the highest quintile, and about a third to the top  
23 10 percent of the income distribution.

24 So I think Senator Gramm's point is correct, that if  
25 we had a uniform income level it would be a

1 simplification, but we do not have that today in any  
2 event.

3 Senator Baucus. So your point is, we do not have it  
4 today in any event, and from a distribution perspective  
5 you think the amendment is more properly applied.

6 Senator Gramm. Mr. Chairman, may I be heard one  
7 more time?

8 The Chairman. Senator Gramm. Then we are going to  
9 have the vote.

10 Senator Gramm. All right. Mr. Chairman, I want to  
11 urge my colleagues that when we are dealing with this  
12 educational IRA we have a fixed income level. All I know  
13 is my own personal experience, and I am always, in a  
14 public forum, loathe to get into it.

15 But I had, up until last year, two children in  
16 college. Everybody here knows what a Senator makes. I  
17 have a wife who works. I can assure you, I had a hard  
18 time figuring out how ordinary people make it if they  
19 have two children in college. I think cutting this thing  
20 off at \$55,000 is not right. I think there are a lot of  
21 hardworking middle income families that are going to be  
22 hurt by it.

23 Senator Rockefeller. Just one category, Senator.

24 Senator Gramm. I understand that. But I have never  
25 understood, in part, if you have just got a single mom

1 and she is having to do it all by herself. Why do we  
2 treat her so much worse than the person where they have  
3 got a couple?

4 So I am just saying, that is a low income level if  
5 you are trying to hit middle America, the people that are  
6 actually bearing the burden of paying for this. They are  
7 not getting any Federal help which many other people are  
8 getting. Their children are not getting Pell grants,  
9 they are not getting other forms of assistance. I just  
10 think the income level is totally unrealistic, if we pass  
11 this amendment.

12 Senator Rockefeller. Mr. Chairman.

13 The Chairman. I think the matter has been  
14 adequately debated.

15 Senator Rockefeller. I agree. But I also proffered  
16 the amendment and I ought to have the right, simply, to  
17 close. I know what the vote is going to be.

18 The Chairman. Thirty seconds, please.

19 Senator Rockefeller. That is all it will be.

20 I do not understand, when the U.S. Government says  
21 that 75 percent of this is going to go to the upper, what  
22 is it, Senator Moynihan, quintile?

23 Senator Moynihan. Quintile.

24 Senator Rockefeller. Quintile. I do not understand  
25 why we are so anxious to vote for that.

1           Second, I do not understand why it is that the people  
2           that I represent and others on this committee represent  
3           whose incomes may be \$27,500 or thereabouts are not going  
4           to benefit from this at all. I do not understand that at  
5           all. I am stunned by it.

6           The Chairman. I think the matter has been argued  
7           sufficiently. The Clerk will call the roll.

8           Senator Moynihan. This is on Senator Rockefeller's  
9           amendment.

10          The Chairman. That is correct.

11          The Clerk. Mr. Chafee?

12          Senator Chafee. No.

13          The Clerk. Mr. Grassley?

14          Senator Grassley. No,

15          The Clerk. Mr. Hatch?

16          Senator Hatch. No.

17          The Clerk. Mr. D'Amato?

18          Senator D'Amato. No.

19          The Clerk. Mr. Murkowski?

20          The Chairman. No, by proxy.

21          The Clerk. Mr. Nickles?

22          The Chairman. No, by proxy.

23          The Clerk. Mr. Gramm of Texas?

24          Senator Gramm. No.

25          The Clerk. Mr. Lott?



1 Senator Lott. No.

2 The Clerk. Mr. Jeffords?

3 Senator Jeffords. [No response].

4 The Clerk. Mr. Mack?

5 The Chairman. No, by proxy.

6 The Clerk. Mr. Moynihan?

7 Senator Moynihan. Aye.

8 The Clerk. Mr. Baucus?

9 Senator Baucus. Aye.

10 The Clerk. Mr. Rockefeller?

11 Senator Rockefeller. Aye.

12 The Clerk. Mr. Breaux?

13 Senator Breaux. No.

14 The Clerk. Mr. Conrad?

15 Senator Moynihan. Aye, by proxy.

16 The Clerk. Mr. Graham, of Florida?

17 Senator Moynihan. Aye, by proxy.

18 The Clerk. Ms. Moseley-Braun?

19 Senator Moseley-Braun. Aye.

20 The Clerk. Mr. Bryan?

21 Senator Bryan. No.

22 The Clerk. Mr. Kerrey?

23 Senator Kerrey. Aye.

24 The Clerk. Mr. Chairman?

25 The Chairman. No.

1           The Clerk.    The votes are 7 yeas, 12 nays.

2           The Chairman.   The amendment does not carry.

3           The vote will now be on reporting out the  
4 legislation.   The Clerk will call the roll.

5           Senator Moynihan.   Mr. Chairman, Senator Breaux  
6 would like to speak.

7           Senator Breaux.   I know all the members have had  
8 discussions on the question of school construction which  
9 was part of initial discussions about this bill.   I am  
10 wondering if the Chairman could give us his intent on  
11 what we are going to do with regard to that issue.

12           Is there a plan to deal with it on the floor or is  
13 there any kind of a game plan for the committee, or is it  
14 just a jump ball when we get to the floor of the Senate  
15 on the issue of school construction?

16           I mean, how are we going to handle this?   There are a  
17 lot of people that feel that this is part of an education  
18 package and I am just trying to get a feel for what we  
19 are going to do.

20           I mean, Senator Moseley-Braun has been very active in  
21 this and I feel strongly about it.   I am just trying to  
22 get a game plan here as to how we are going to handle  
23 school construction.   Is it going to be a manager's  
24 amendment, a commitment amendment, a jump ball and  
25 everybody do their own thing, or what is the will of the

1 Chairman on that issue?

2 The Chairman. Well, we will certainly be pleased to  
3 try to work with the committee to see if we can come up  
4 with something that would have broad support. As you  
5 know, we have made the proposal on the small issue of  
6 increasing it from \$10 million to \$15 million.

7 Senator Kerrey. Can we work the details out between  
8 now and the floor?

9 Senator Rockefeller. The Chairman indicated he  
10 would have hearings.

11 Senator Moseley-Braun. That is correct.

12 The Chairman. Let me say that I made a good faith  
13 effort. The money is still there and I think we ought to  
14 proceed on that basis. As I said, we will work with the  
15 full committee in an effort to try to get agreement on  
16 some proposal.

17 Senator Moseley-Braun. Mr. Chairman?

18 The Chairman. Yes.

19 Senator Moseley-Braun. On school construction, I am  
20 looking very much forward to the hearings that we  
21 discussed this morning and I am hopeful that we can come  
22 up with language in the meantime that will engender the  
23 kind of bipartisan support that I know the Chairman was  
24 interested in having with his original version of this  
25 legislation.

1           So I look forward to working not only with the  
2 Chairman, but my colleagues on this committee on both  
3 sides of the aisle to try to come up with language that  
4 will meet the issue of the school construction.

5           Again, even at the beginning of this process when the  
6 Chair was offering to do \$1.3 billion or \$1.6 billion on  
7 this, I would point out that the General Accounting  
8 Office says there is \$112 billion worth of unmet need  
9 just to bring the schools up to code in this country and  
10 to suggest that we at the national level do not  
11 contribute to meeting the school construction needs is to  
12 suggest that people go back and find higher property  
13 taxes to do so. I do not think that that is an  
14 alternative.

15           Most communities have stretched themselves as far as  
16 they can go in terms of property tax levies for  
17 education. The President's proposal was for \$5 billion.  
18 I would hope that we could do \$5 billion at some point,  
19 and in the amendment process that Senator Kerrey speaks  
20 of.

21           So I would like to say, Mr. Chairman, that again, I  
22 do not know if we are going to vote on the bill as a  
23 whole. We are? I wanted to express some views.

24           The Chairman. Please proceed.

25           Senator Moseley-Braun. Thank you.

1           With regard to the education IRA legislation, I think  
2           Senator Rockefeller was right on point in trying to make  
3           it reach the hardest working Americans. Well, a lot of  
4           people work hard, but poor people really do need the help  
5           and this legislation, in terms of the education IRA, does  
6           not respond to their needs very well at all. I think the  
7           notion of the distribution for these education IRAs being  
8           to the highest quintile tells the whole story. I think  
9           Senator Rockefeller was trying to address that.

10           I could not help but be struck by the irony, that  
11           here was someone named Rockefeller standing up for poor  
12           people, as he always does, fighting the good fight, and I  
13           very appreciate and support him in his effort.

14           Additionally, Senator Moynihan's initiative on the  
15           employer-provided educational assistance, I think, is  
16           very, very important. All too often businesses are  
17           finding themselves incapable of having the level of skill  
18           that they need in the work force. We have found--and I  
19           will remind some of my colleagues--instances in which  
20           people have had to go outside of these shores to find  
21           workers capable of doing the job.

22           That, I think, is terrible and we ought to support  
23           businesses that are prepared to provide education and  
24           training for their employees, and particularly for those  
25           that, now that this legislation will bring it down to

1 include undergraduate education as well, I think that is  
2 absolutely in the right direction to help the private  
3 sector train our work force, because clearly our work  
4 force will have to be the most educated on the planet if  
5 we are going to be competitive in this global economic  
6 competition.

7 Finally, the qualified State tuition programs. I  
8 mentioned to my colleague from Texas that these have done  
9 very well in Illinois. They are very popular. They seem  
10 to work.

11 Senator Lott. Is this the so-called prepaid  
12 tuition?

13 Senator Moseley-Braun. The prepaid tuition has  
14 worked very well in our State and has a great deal of  
15 support in the public as a whole. I want to commend him  
16 for that.

17 Having said that, Mr. Chairman, I will not vote for  
18 the mark as it comes out of this committee and I have  
19 just given my reasons why. I have expressed my  
20 reservations and opposition, at least in terms of the tax  
21 credit proposal.

22 But, all in all, I think the Chairman, as I said  
23 earlier, has done a Solomonesque kind of job in trying to  
24 reconcile interests here and find common ground for the  
25 members of this committee. I, for one, very much

1 appreciate it.

2 The Chairman. I thank the distinguished Senator  
3 from Illinois.

4 I think the time has come for the vote. I call for a  
5 recorded vote. The Clerk will call the roll.

6 The Clerk. Mr. Chafee?

7 Senator Chafee. No.

8 The Clerk. Mr. Grassley?

9 Senator Grassley. Aye.

10 The Clerk. Mr. Hatch?

11 Senator Hatch. Aye.

12 The Clerk. Mr. D'Amato?

13 Senator D'Amato. Aye.

14 The Clerk. Mr. Murkowski?

15 The Chairman. Yes, by proxy.

16 The Clerk. Mr. Nickles?

17 Senator Nickles. Aye.

18 The Clerk. Mr. Gramm, of Texas?

19 Senator Gramm. Aye.

20 The Clerk. Mr. Lott?

21 Senator Lott. Aye.

22 The Clerk. Mr. Jeffords?

23 Senator Jeffords. [No response].

24 The Clerk. Mr. Mack.

25 The Chairman. Yes, by proxy.

1           The Clerk.    Mr. Moynihan?  
2           Senator Moynihan.   No.  
3           The Clerk.    Mr. Baucus?  
4           Senator Baucus.   No.  
5           The Clerk.    Mr. Rockefeller?  
6           Senator Rockefeller.   No.  
7           The Clerk.    Mr. Breaux?  
8           Senator Breaux.   Yes.  
9           The Clerk.    Mr. Conrad?  
10          Senator Moynihan.   No, by proxy.  
11          The Clerk.    Mr. Graham, of Florida?  
12          Senator Graham.   Aye.  
13          The Clerk.    Ms. Moseley-Braun?  
14          Senator Moseley-Braun.   No.  
15          The Clerk.    Mr. Bryan?  
16          Senator Bryan.   No.  
17          The Clerk.    Mr. Kerrey?  
18          Senator Kerrey.   No.  
19          The Clerk.    Mr. Chairman?  
20          The Chairman.   Aye.  
21          The Clerk.    The votes are 11 yeas, 8 nays.  
22          The Chairman.   The vote is in favor of reporting out  
23          the legislation.   Thank you very much, ladies and  
24          gentlemen.  
25          Mr. Prater.    Mr. Chairman, I request the necessary



1 technical and conforming drafting authority.

2 The Chairman. Without objection, so ordered.

3 The committee is in recess.

4 [Whereupon, at 12:51 p.m., the meeting was  
5 concluded.]

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*Hatch*

STATEMENT BY SENATOR ORRIN G. HATCH  
SENATE FINANCE COMMITTEE MARKUP  
S.1133 SUBSTITUTE

Thank you, Mr. Chairman, for holding this markup today. This is an extremely important piece of legislation, and I appreciate that we are acting on it so early in the session.

Last year, Congress passed the Taxpayers Relief Act of 1997 and gave the American people much needed tax cuts. One of the main goals of that legislation was to make education more affordable for the families of America, and it contained many provisions to that end. That bill was the first step.

Today, we are taking a very important second step toward affordable education. This bill would build on the education savings accounts established last year and increase the annual contribution limit to \$2000. This allows families to save even more toward future education using these accounts. This is especially important when you stop to think about how high the average cost of college is today - let alone 5 or 10 years from now. Expanding the contribution limit will allow families to make a substantial down payment today for the education they need to finance tomorrow.

In addition, the Chairman's mark will allow the money in these education savings accounts to be used for the educational expenses associated with a student's complete education - from kindergarten through college. All too often, proposals designed to make education more accessible and affordable seem to forget that education does not begin in college. A good education is necessary long before then. I strongly support the step we are taking here today.

The Chairman's mark also contains provisions relating to qualified state tuition programs. The state of Utah was one of the first states to adopt a qualified tuition program to allow parents and students to receive tax benefits for contributions to an account for college education. These tuition programs have proven to be very beneficial in reducing the cost of tuition for students and parents who save for college. Under the Chairman's mark, students in Utah would be allowed to withdraw funds for tutoring expenses and for expenses for special needs services.

This important change will allow more students in my home state of Utah and elsewhere to take advantage of tutoring and other special needs services through the use of state tuition program funds. Once again, Mr. Chairman, we are sending an important message to our students - that we care about their education -- all of it. Education is more than tuition and books, it is the complete process of learning.

This mark also contains some much needed relief for the financing of our schools. More and more of our school districts are crying out for our help to help them save the infrastructure of our school systems. Too many of our school buildings are crumbling and overcrowded. The provisions in this bill will help our states and our school districts get much needed financing to build and repair school facilities. This is extremely important to our students and their future.

Last, but not least, the mark would extend the employer-provided assistance exclusion through the year 2001 for both undergraduate and graduate programs. This is a proven program that works. Many companies in Utah provide tuition assistance for their employees - and the employees are taking advantage of these programs. This provision grants access and affordability to education that students may not otherwise be able to afford to get. We cannot leave these working students out in the cold because they are getting a helping hand from their employer. I wholeheartedly support the inclusion of this provision in the mark before use today.

I have stated my support for all of the education provisions in this mark, and I wish I could state my unconditional support for the mark. Unfortunately, I cannot. I was extremely disappointed to find that the Chairman's mark contained a provision altering the carryback and carryforward period of the foreign tax credit. While this sounds like a harmless provision, it is not.

The foreign tax credit is intended to offset taxes paid by U.S. corporations to foreign governments, thereby eliminating the double taxation of American corporations operating in foreign countries. This is extremely important in today's global marketplace. We should be working to change the tax code to help our multinationals compete. By changing the carryback and carryforward provisions of the foreign tax credit, we make it more costly to do business. This will only harm U.S. multinationals as they compete with foreign-based companies. This is definitely the wrong direction for U.S. tax policy to be going.

Having said that, I do believe strongly in the goals of the education provisions and will vote for the Chairman's mark today. However, I ask that the Chairman work with me and others who share these concerns to find an alternative source of revenue before this bill comes to a vote on the Senate floor.

Thank you, Mr. Chairman.

## STATEMENT OF SENATOR CONRAD

I cannot join in the Committee's decision to report out S. 1133, the Parent and Student Savings Account Plus Act. In rejecting an amendment which would have limited the benefits of education IRAs to middle-income and lower-income families, I believe the Committee missed an opportunity to target the benefits of this program more effectively.

I was disappointed that the Committee was unable to agree on a school construction component in the bill. Many schools in my state, particularly those on Indian reservations, urgently need additional resources to help them fund rehabilitation of existing facilities as well as new construction. I appreciate the Chairman's willingness to work with Committee members to reach an agreement on this important issue.

In addition, the bill would be strengthened if the definition of "qualified elementary and secondary education expenses" were modified to exclude tuition. This modification would level the playing field for participants in the education IRA program by ensuring that expenditures of education IRA funds would be allowed for exactly the same purposes, whether the beneficiary attended a public or private school.