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Senate

(Legislative day of Monday, June 19, 1995)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

A contemporary rendering of the 23d Psalm provides a prayerful confession of faith as we begin this day:

The Lord is my strength, I shall not panic;
He helps me relax and rest in quiet trust.
He reminds me that I belong to Him and restores my serenity;
He leads me in my decisions and gives me calmness of mind.
His presence is peace.
Even though I walk through the valley of the fear of failure,
I will not worry, for He will be with me.
His truth, grace, and loving kindness will stabilize me.
He prepares release and renewal in the midst of my stress.
He anoints my mind with wisdom;
My cup overflows with fresh energy.
Surely goodness and mercy will be communicated through me,
For I shall walk in the strength of my Lord, and dwell in His presence forever.
Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, this morning leader time has been reserved.

The Senate will meet in executive session to begin 3 hours of debate on the nomination of Dr. Foster.

At 12 noon, or right around 12 noon, there will be a cloture vote on the Foster nomination. If cloture is not invoked the Senate will resume consideration of S. 440, the highway bill.

I just suggest that Members can expect votes. We hope to complete action on the highway bill today. I understand there are only one or two major amendments and many others are in the process of being worked out, or may not be offered.

EXECUTIVE SESSION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

The PRESIDING OFFICER (Mr. INHOFE). Under the previous order, the Senate will now go into executive session to proceed to the consideration of the nomination of Dr. Henry W. Foster, Jr., of Tennessee, to be Medical Director in the Regular Corps of the Public Health Service, and to be Surgeon General of the Public Health Service, on which there shall be 3 hours of debate.

Mr. DOLE. Mr. President, the time will be under the direction of the chairman of the committee, Senator KASSEBAUM, and the ranking Democrat member, Senator KENNEDY.

I just want the RECORD to reflect before the debate starts that this nomination came on the calendar on May 26. That was followed by a recess. It was June 5 when we came back. This Senator and Dr. Foster tried to get together in 1 week. He was not available. The next week I was not available. But the RECORD should reflect that it has only been really since June 5 to June 21.

So there has not been any delay as far as bringing the nomination to the floor. There was a lot of research and investigation done prior to the hearing. But I listened to some comments last night on television. I had the impression that many in the media thought this had been pending on the Senate floor for months and months, which is not the case. It is barely a little over 2 weeks.

NOMINATION OF HENRY W. FOSTER, JR., TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE AND TO BE SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The nomination of Henry W. Foster, Jr., of Tennessee, to be Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Surgeon General of the Public Health Service, for a term of 4 years.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

PRIVILEGE OF THE FLOOR

Mrs. KASSEBAUM. Mr. President, first I would like to ask unanimous consent that Dr. Jim Wade, a Robert Woods Johnson Fellow of the staff of the Committee on Labor and Human Resources, be allowed the privileges of the floor during the consideration of the nomination.

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

Mrs. KASSEBAUM. Mr. President, the Senate is now considering the nomination of Dr. Henry W. Foster, Jr., to be Surgeon General of the United States. At noon today, the Senate will vote on the motion to invoke cloture, which would limit debate on this nomination.

Mr. President, I oppose this nomination, for reasons that I will briefly explain, but I will vote for cloture so that

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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the Senate can make a clear-cut decision on Dr. Foster's nomination. While I respect the right of any Senator to engage in extended debate on any issue, I have long believed that nominations should be dealt with in a direct fashion. My practice has been to oppose filibusters on nominations and I will oppose one on this nominee, even though I do not support Dr. Foster's confirmation.

This nomination has been embroiled in controversy from the outset due to the fact that, as an obstetrician-gynecologist, Dr. Foster has performed abortions. That fact has become a battle cry for those on both sides of the abortion issue.

When the Committee on Labor and Human Resources considered this nomination, I said that Dr. Foster deserved to be judged on his whole record, not on a single issue. I have weighed the full record and concluded that I cannot support Dr. Foster's nomination.

Given the troubled term of Dr. Joycelyn Elders, it was clear to me, and it should have been clear to the administration, that the next Surgeon General needed to be someone who immediately could reestablish the credibility and nonpolitical authority of this office.

But political it has become, and many Americans, including me, wonder why we need a Surgeon General if he or she is going to be caught up in pointless rhetorical controversies that do nothing to address the critical health issues facing our Nation.

The Surgeon General's main role is to speak to the entire Nation on health issues in ways that both enlighten and challenge us. I believe that Dr. Foster cannot effectively perform that role, largely because his own credibility and authority was undermined at the very start of the nomination process.

Despite his many strengths, I believe Dr. Foster is the wrong person to step into this badly damaged office at this time.

On top of this overarching concern, I have serious reservations about this nomination when it is weighted solely on Dr. Foster's own merits, particularly his willingness to provide strong leadership on difficult issues.

My concern about Dr. Foster's leadership goes to the heart of this nomination—his supervision and direction of the I Have a Future Program, which the administration and Dr. Foster himself have made the centerpiece of his nomination.

In his opening statement to the committee, Dr. Foster talked about the success of this program and his desire to lead a national crusade to deal with the critical problem of teenage pregnancy in this country.

The I Have a Future Program is not without merit and undoubtedly has changed the lives of some young people for the better. Dr. Foster should be commended for his efforts in working to create a worthwhile program. There is no question in my mind that Dr. Foster has a sincere, genuine concern for young people and is deeply committed to helping them.

However, the record also is clear that the I Have a Future Program has never shown significant success in reducing teenage pregnancy. In fact, evaluations produced in 1992 and in 1994 raise serious questions about whether this program has had unintended consequences by increasing sexual activity among its participants.

If anything, the I Have a Future Program demonstrates the extreme difficulty, the extraordinary resources, and the potential risks involved in efforts to deal with teen pregnancy. Far from being a model for a national crusade, it is instead a warning sign to us all to proceed with caution on this matter.

In both his testimony to the committee and in response to written followup questions, Dr. Foster has been unwilling to come to grips with the difficult, fundamental questions raised in evaluations of this program. I am troubled by this unwillingness. A Surgeon General must have not only a good heart, which Dr. Foster certainly has, but the ability to ask hard questions and demand solid answers rooted in fact and in science.

Mr. President, are we asking too much of the Surgeon General of the United States? If, indeed, this is a position of importance to us in this country, I think not. We need the strongest possible leadership for our Nation's public health concerns. And I do not believe Dr. Foster is that nominee. Therefore, I will vote against his confirmation.

I yield the floor, Mr. President.

Mr. KENNEDY. Mr. President, I yield myself 7 minutes.

Mr. KENNEDY. Mr. President, I welcome the opportunity for the Senate to have a chance to express itself on the nomination of Dr. Foster.

There was some comment earlier about the fact that Dr. Foster has been on the calendar for a very limited period of time and a question why there should have been so much concern about the consideration of Dr. Foster.

The principal reason for that is because leaders in the Senate indicated they were going to use their power, such as that of the majority leader, to not even consider the nomination that had been reported out of the Labor and Human Resources Committee, and there are others who indicated that they were going to use the rules of the committee in order to raise a higher barrier, higher hurdle, for the nominee to go over in order to be approved for the position of Surgeon General.

So there has been a great deal of concern, and I think that the overwhelming majority of the American people, certainly those who watched the consideration in the hearings for the time that Dr. Foster testified, had to feel that the issue of fairness was in play here; that Dr. Foster had been nominated by this President, really an outstanding nominee, one that has demonstrated his qualifications well, reported out of the committee, and that the Senate in its own way ought to have the opportunity to express itself.

Quite frankly, the fact that we are going to vote for cloture in order to be able to get to the nomination I do not think is the way we ought to be considering the nomination. I do not think it is fair to Dr. Foster, and it is not fair to the American people, who want to have an outstanding doctor as the Surgeon General.

It continues to be my position, and I think for most persons, that this is not the fair way to treat this nomination. It is not the fair way to treat an individual who has gone through the process with great dignity, great patience, great grace, great strength, and demonstrated a knowledge and an ability and a strong commitment to do the job of Surgeon General.

I think those who have pointed out there are other forces at work here are correct. This really is an issue that involves, I believe, a woman's right to choose, and the issue of privacy, the question of the doctor who is going to be Surgeon General is going to face a litmus test on the issue of abortion before being able to be confirmed. When all is said and done, Mr. President, that is really the issue that is out there. Dr. Foster is entitled to a vote. He is entitled to a vote up and down, and the American people are entitled to a Surgeon General who understands and respects the right of privacy, the constitutional right of a woman's right to choose.

Now, I listened carefully during the course of the hearings. There are those who have talked about this, and we will have a chance during the course of this debate this morning to hear many of our colleagues who want to speak on it, as we should hear from them. But nonetheless, when the bottom line is drawn, that is the underlying issue. We will hear about the Tuskegee study. We will hear about sterilization. We will talk about the number of abortions. We will talk about the I Have a Future Program, but you cannot get away from the fact that this extraordinary individual for 38 years has devoted himself to the well-being of needy people in our society.

How many other doctors would leave the hallowed halls of great institutions and go down and serve in the most underserved part of America, the poorest area of America. This is a baby doctor, delivering 10,000 babies over the course of time. I do not even recognize the nominee from the descriptions that many of our colleagues who are opposed to Dr. Foster would use.

How many would spend their time not only delivering babies in some of the most difficult circumstances and then devote their lives to training young people?

We will hear what was the effect of the I Have a Future Program. It was good enough for President George Bush

to give it an award—good enough for that. Where were those voices then who are complaining about this program now? They were silent. Why? Because President Bush identified this as a program trying to make a difference.

We will hear that program flyspecked on the floor of the Senate, but what you will not hear are those young voices. You will not see the eyes of those young people on the floor of the Senate. You will not be able to shake their hands, as many of us have done, and hear them say, ''Dr. Foster made a major difference in my life. He has given me real hope. I am staying in school. I am going on in school. I am abstaining.''

We will hear, ''Well, did the information really emphasize abstinence? When was it printed?''

You are missing the point. How many other doctors have really attempted to lead the country to try to do something about the problems of teenage pregnancy? How many others have tried to keep our young people in school, as Dr. Foster has done? And how many have been a source of inspiration, as he has?

I daresay, Mr. President, when you look at his commitment, when you look at his dedication, he could have taken that medical diploma and been on easy street today. He did not have to go through this process. He could have a good, solid income and be living in the best areas and communities of any city in this country. But he dedicated himself to the people who are left behind in our society, those without. And he was recognized by the Institute of Medicine as a leader of his field. Does anybody understand how you get selected by the Institute of Medicine, one of the most prestigious and important academic achievements? Because of his record, because of his commitment. He has served on ethical panels in his own State. He has assumed every kind of position of leadership and distinction because of extraordinary service. And he has been recognized by some of the most important charitable organizations because of that leadership.

The Carnegie Foundation, that does so much work in terms of poor children, recognized his program. They reviewed it. He asked for help and assistance, technical help and assistance. And when he asked for technical help and assistance, those who are opposed to him say, ''Take that letter. Look, he really didn't know what he was doing because he asked for technical help and assistance.'' It is the most convoluted rationale for opposition to this nominee.

Mr. President, this nominee by training, tradition, concern and conviction is a man who can serve this country, is a man who has been dedicated to youth, is a man who has been an outstanding researcher in sickle-cell anemia and infant mortality and perinatal kinds of diseases. He is a man who can serve as Surgeon General with distinction, and I hope he will be approved.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I yield to the Senator from Maryland 5 minutes.

Ms. MIKULSKI. Good morning, Mr. President.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise this morning to lend my voice and my vote to the nomination of Dr. Henry Foster to be Surgeon General of the United States of America.

This morning I will be pleased to vote for Dr. Henry Foster to be the Surgeon General of the United States. Why? When I look at Dr. Foster, I see a man who meets my criteria for the Surgeon General of the United States. He has competence. He has character. He has commitment. He brings bedrock values and the right professional credentials to the office of the Surgeon General.

He is truly a leader, a man who leads by example. He leads by example in the way he has lived his life, both personally and professionally. Dr. Foster has dedicated his life to improving people's health, particularly the health of women and children, and most often the health of those who are without health care, those who have been left out, those who have been pushed aside, those who have been down and out.

When Dr. Foster returned from the U.S. military, he could have gone to a lucrative practice somewhere in the North and would have gone on to make a great medical contribution and, I am sure, would have made a lot more financial profit for his family. But he chose to go to the South. And to the South he went. And he reached out his very able hand to those in a segregated health care system that needed a doctor and needed a medical helping hand.

That is who Dr. Foster is. He is a qualified professional bringing competence as a clinician, a medical administrator, and a scholar in residence now. For 38 years, he has been a respected member of his own medical community. He has been a medical professor and then even a dean of a medical school. He will bring great knowledge and expertise to the Surgeon General post. I believe he will serve with distinction.

In the debate, we will hear things about the Tuskegee study, the famous study done on the issue of syphilis in which African-American men did not know that they were being experimented on in his own country. You will also hear about how Dr. Foster participated in a study on hysterectomies and how some of the people involved were mentally retarded.

But let me tell you about that. There is much going to be said, what did Dr. Foster know and what did Dr. Foster do?

In that area of the Tuskegee study, Dr. Foster told the committee that he knew nothing about that Tuskegee study until years later. Now, that will be disputed here this morning. I will tell you, as a member of something called the National Medical Society—because the AMA would not let African-American doctors in—his own peers, if they knew that he knew about the Tuskegee study, he would have been shunned and ostracized in his own community. They would not have made him the dean of the medical school at one of the most distinguished, historically black colleges in the United States of America.

Then they will talk about the fact that in a study that he did—not hysterectomies that he performed—mentally retarded girls were involved. There will be the issue of parental consent. Dr. Foster will tell you there was parental involvement. Now, are we going to dispute that? Well, his peers in Nashville did not dispute it.

Then the medical society, when they finally admitted African-Americans after all those years, they made him the head of the bioethical committee.

So who should judge who Dr. Foster is? Is it the U.S. Senate, who has only gotten to know him or the people who have known him for 38 years in his own medical profession?

I say, let us go back home and talk to the people who knew Henry Foster, and they will tell you how he stands.

Now, Dr. Foster's character. Dr. Foster served as a captain in the U.S. Air Force. He brought character and competence, as I said, to that job. When he served willingly in the military, his character and competence were never questioned. So why should we question it now? He willingly served in the U.S. military. America wanted him then. And I say America wants him now. They want him to be the Surgeon General.

The Surgeon General's office is organized on a military model—''Surgeon General.'' And I believe that he will lead a campaign, a campaign against teenage pregnancy, a campaign against infectious disease. The Surgeon General will show that the triad for health care in the United States is prevention, primary care, and personal responsibility. And that is the kind of campaign Dr. Foster will lead.

But while he is a great clinician, he brings old-fashioned values. As a community leader in Nashville he did voluntary work in his own community, serving on boards, including the March of Dimes, to lead the fight against birth defects. We have all heard a lot about how he has been a driving force behind the teenage pregnancy program, I Have a Future. He won a point of light for that. I hope he will be more than a point of light for the United States of America. I Have a Future stresses to the teens the importance of abstinence.

Mr. President, I ask for 2 additional minutes.

Mr. KENNEDY. Two minutes.

Ms. MIKULSKI. I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Without objection, so ordered.

Ms. MIKULSKI. I Have a Future stresses to teens the importance of abstinence and self-esteem and teaches teens to say ''no'' to teenage pregnancy, and ''yes'' to abstinence, personal education and jobs. We see under that program fewer teens getting pregnant and more young people going to college.

Dr. Foster has dedicated his life to giving people chances, giving women the chances to have healthy babies, giving babies the chance to have healthy childhoods, and giving the teens a chance to have a successful future.

I say let us give Henry Foster a chance. Let us give him a chance. He is both a man of the mind and a man of the heart. He is a man of the medical community and is involved in his own community and the kind of leader and distinguished public servant our country needs. I look forward to his tenure as the next Surgeon General. I hope we will not deny him his day in the U.S. Senate by hiding behind a parliamentary maneuver.

Mr. President, I yield such time as I might have left.

Mr. KENNEDY. Mr. President?

I yield 5 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Senator from Massachusetts. Mr. President, in my view, as a matter of basic fairness, Dr. Henry Foster is entitled to his day in court. He is entitled to a vote on the merits without having a filibuster foreclose an up or down vote.

The real challenge in this matter is whether Dr. Foster is disqualified from being Surgeon General of the United States because he has performed abortions, a medical procedure lawful under the Constitution of the United States. This should not be a matter which is debated on the floor of the U.S. Senate with respect to Dr. Foster's confirmation. But that happens to be the fact of the matter. All of the other issues are red herrings. Dr. Foster acquitted himself brilliantly in his testimony before the committee. I met with Dr. Foster extensively, examined his record, and there is no question but on the merits he is well qualified to be Surgeon General of the United States.

But the sole issue which confronts his confirmation today is that he has performed abortions, a medical procedure lawful under the Constitution of the United States. We have to remember, Mr. President, that it is not Roe versus Wade, the Justice Blackmun opinion of 1973, which governs here today but it is the decision of the Supreme Court of the United States in Casey versus Planned Parenthood, written by three Justices appointed by Republican Presidents. And the matter ought not to be a partisan issue here. I suggest, Mr. President, that it is a very bad precedent if there is to be a filibuster based on ideology.

Judge Thomas, when he was up for confirmation for the Supreme Court of the United States—now Justice Thomas—would have been foreclosed from confirmation had the same procedure, the same tactic been employed in reverse. Judge Thomas was confirmed to be Justice Thomas by a vote of 52 to 48. Had there been an ideological battle, Justice Thomas would not have received 60 votes, and he would not have been confirmed. I suggest that this is a very, very bad precedent, if we are going to start fighting ideology on the floor of the U.S. Senate when it comes to the confirmation of someone who is before this body.

Now, Mr. President, we know that in last November's election, there was a sea change by the American people. And we now have a new look in the Congress of the United States. But I think it is important for Senators on both sides of the aisle to focus on the fact that there was nothing in the Contract With America on a woman's right to choose. There was nothing in the Contract With America on the subject of abortion. There was nothing in the Contract With America that is legitimately raised here in the consideration of the nomination of Dr. Henry Foster.

And I suggest, Mr. President, that if this body is going to become embroiled on this constitutional issue, a woman's right to choose, a medical procedure sanctioned by the Supreme Court of the United States, we are not going to be able to attend to our core responsibilities.

What the 104th Congress was elected to do is to reduce the size of Government, to cut spending, to balance the budget, to lower taxes, to have effective crime control, and have strong national defense. It is true that this issue has come to the floor under a limited time agreement. But when this body takes up the question of abortions on military bases, we will be discussing that for days, weeks, or perhaps months. This is not the kind of issue that ought to embroil the Congress of the United States, the Senate of the United States. The constitutional law has been established in the building across the green by the Supreme Court of the United States and the opinion written by three Justices appointed by Republican Presidents. We ought not allow this ideological issue to obscure the underlying question as to whether Henry Foster is qualified to be Surgeon General of the United States.

If we become embroiled in these matters, we will not be doing the job that we were sent to do in the 104th Congress. I urge my colleagues to set aside ideology, to recognize the constitutional right of a woman to choose and not to disqualify this nominee because he is carrying out a medical procedure which is authorized under the Constitution. Cloture ought to be invoked, and this man ought to have his day in court, ought to have his day in the Senate on the merits, and if that is done, I believe he will be confirmed.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Mr. President, what is the time that is remaining?

The PRESIDING OFFICER. The time remaining on your side is 71 minutes and 84 minutes 31 seconds on the other side.

Mr. KENNEDY. I yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 5 minutes.

Mr. PELL. Mr. President, I thank my friend and colleague from Massachusetts and rise in strong support of the nomination of Dr. Henry Foster to be Surgeon General. While I am delighted that the day of debate has finally arrived, I must say how unfortunate I find it that Dr. Foster's nomination may be resolved—not by the will of the majority—but by the minority rule permitted under the Senate's cloture rule, which was invoked here even before there was any debate.

I have long believed that every President deserves great deference in the choice of nominees, provided that the individual is qualified for the position for which he or she has been nominated. And because of that belief, I have—over the years—cast votes for nominees for whom I had little enthusiasm. This is not the case today. Today I can enthusiastically cast my vote for Dr. Foster, after having met him, talked with him, and listened to him carefully during 2 full days of testimony before the Senate Labor and Human Resources Committee.

I believe that Dr. Foster is a man of substance, who has worked very hard all his life to achieve an unselfish kind of success. Dr. Foster was raised in the rural South at a time of intense segregation, enduring those indignities with the kind of dignity, intelligence, and vision that enabled him both to see that he could achieve something important in his life—and to do it. He speaks eloquently of his father's teachings of the value of education and hard work, and he has clearly incorporated those values into everything he has done throughout his life.

Dr. Foster's credentials alone render him a qualified candidate for Surgeon General. A practicing obstetrician-gynecologist for 38 years, he is also a medical educator who has devoted much of his professional life to reducing infant mortality and preventing teen pregnancy. He has served as both dean of the school of medicine and acting president of Meharry Medical College, and has been the recipient of many awards and honors—too numerous to mention here—ranging from induction into the Institute of Medicine to receiving a Thousand Points of Light Award from President Bush for his I Have a Future Program that promotes self-esteem and positive choices among at-risk teens.

But it is true that qualifications alone may not be sufficient for a person to hold a position of leadership and

trust in our Government. Especially with a position attracting as much attention as Surgeon General, it is important that the person appointed be an example of the best that our country has to offer.

Mr. President, from what I have learned about Dr. Foster, I believe that he is such a person. In addition to excellent academic and leadership qualifications, Dr. Foster has traveled an admirable path, in the early years forfeiting a life of wealth in a more comfortable setting to return to his roots—this time to poor, rural Alabama—to help an underserved population that needed his care. Since then, Dr. Foster has helped train the minds and influence the careers of hundreds of Meharry Medical College students, many of whom have followed in his footsteps.

While Dr. Foster's life and career have not been without their controversial moments, there are few, if any, individuals of prominence and principle in this country who have not experienced such moments in life. I have reviewed carefully the information available to me about those times in Dr. Foster's life and have asked him about others. I am satisfied that Dr. Foster has told the truth about the discrepancies that arose shortly after his nomination was announced, and I believe that his actions can be explained in the context of the times and the nature of his work.

I have been most impressed by the strong support Dr. Foster has received from the medical community, from public health and social service advocates, and from individuals in my State and around the country—including several Rhode Islanders who have contacted me to say that they personally know and admire Dr. Foster. I hope that the U.S. Senate will look fairly at the man himself and consider carefully his story, his dreams, his vision for the country, and his qualifications. I feel confident that it we do that, we will confirm the nomination of a person of compassion, humor, and dedication, whom I believe deserves the chance to serve his Nation as the next Surgeon General.

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 5 minutes.

Mr. DODD. Mr. President, I thank my colleague and the chairman of the committee. Let me say briefly, Mr. President, that first of all, I strongly support this nomination. I believe Dr. Henry Foster is not only deserving of a Senate vote but also deserving of an affirmative vote, confirming him as Surgeon General of the United States. And it should be done so with a note of celebration.

It is, I think, a low moment for the U.S. Senate that we are going to be engaged in a couple of cloture votes on this nomination. This is an individual who has served his country, his community with great distinction over four decades. It saddens me deeply that we are going to be engaged in a procedural approach to deny this individual a straight up-or-down vote on his nomination, that you have to produce now 60 votes in order to be confirmed as Surgeon General of the United States, for an individual who, as everyone now knows, has been recognized by his Governor, by a former President of the United States of the majority party for his contribution.

As I said, we should be celebrating his life and his contribution, rather than making him the subject of ridicule. I am just deeply saddened that it has come to this, that we are engaged in procedural maneuverings.

Let me put it bluntly, this is not about Dr. Foster. We are engaged in Presidential politics. That is what this is about. This is not a question of whether or not Dr. Foster deserves to be confirmed as the Surgeon General of the United States. This is a game of one-upmanship, in my view, and that is what it comes down to. Frankly, he is being used as a pawn in this process to advance the particular political agenda of candidates for an office that will not be decided for 18 months in this country. Anyone who suggests otherwise, I think, has not been around here in the last number of weeks.

This is a highly qualified individual, Mr. President. No one denies the fact the White House did not handle this terribly well, but it is not the White House that is up for confirmation this morning. It is Dr. Henry Foster. Be angry at the White House if you want, suggest they might handle the process in a more efficient manner, but do not make Dr. Foster the victim of that criticism, however legitimate it may be.

This is an individual, as I mentioned, who gave four decades of his life to helping others and could have easily just retired, enjoyed the comforts that his profession might offer him through whatever financial remuneration he might receive, rather than stepping forward and to accept the position of Surgeon General of the United States.

The President has identified a very critical and important issue, and that is teen pregnancy. Dr. Foster has run a program in Tennessee called I Have a Future. That program has its difficulties. Our distinguished chairperson of the Labor Committee has identified some areas where she thinks the success of the program has not been as strong as it could be. That may very well be the case. I am not even going to argue about that. The point is, and I say it with all due respect, at least he is trying, he is trying to do something about it.

Programs have been tried and failed across this country, but people step up and try to do something about a plague in our Nation—and that is kids having kids. Every American citizen in this country knows what a serious problem it is. Here is a doctor in Tennessee who, on his own initiative, went out and said, ''I think I will roll up my sleeves and try and do something about it.'' And so he tries, and he has great success, I point out. An overwhelming majority of these kids have completed high school, many have gone on to college, trying to get their lives straightened out setting an example of how you can achieve success, deferring the gratification that too many youngsters in this country do not understand or appreciate the benefits of avoiding.

So this individual does that, is involved in a variety of community activities over the years, and receives one of President Bush's points of light. Lamar Alexander asks him to head up an infant mortality program in the State. And then an American President says, ''Would you serve as a Surgeon General and come up here and see if we cannot come up with a national program to deal with this issue?'' Here is a man who was the first African-American to be in medical school in Arkansas years ago, who struggled against all of the problems associated with being an African-American through the 1940's and 1950's and 1960's, who served his country in uniform. He comes through this process and all of a sudden he goes through this wringing, wrenching process because he happens to be an obstetrician-gynecologist, one of 35,000 of them in the country, who has performed abortions, a legal procedure.

Obviously, there are those who disagree with abortion. Are we saying here this morning that anybody out there who is an obstetrician-gynecologist better never come forward and try to seek a position in the Federal Government, particularly a confirmable position; do not even think about it?

I heard the other day from people when I asked them whether or not they would be willing to step forward and seek a position. I talked to young people and said, ''Would you ever think about serving your Government if asked to serve?'' They laughed. There was uproarious laughter when I suggested it. Two got up and said, ''What did Dr. Foster go through? Do you think I would ever be willing to go through that process?''

We better think twice about what we are doing when we drag people like this through the mud and deny them an opportunity to serve. No sound-thinking person having witnessed what this man has gone through would step forward. We are doing great damage by engaging in a cloture motion here. Let us vote this man up or down. If you do not like him, vote against him, but do not deny him the opportunity to receive, I think, the majority of votes he would receive in this body, and let him do his job as Surgeon General. We do not do ourselves proud by going through a process like this.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I yield myself 20 seconds. We have the members of the committee that were here this morning prepared to debate these issues that have been raised. We have read about them in the newspapers, we have heard about them on radio, and we have watched them on television. We believe they have been answered. We are prepared to debate.

I hope we are not going to be in the situation where we are using up our time in the last hour and we do not have an opportunity because we have those who want to speak and advocate for Dr. Foster. We have had now close to 45 minutes, and I have other Senators eager to address the Senate in support of this. We are trying to deal with these issues. We are here and we want to debate this. This is enormously important.

So I hope that we can at least engage and respond. I think the American people want that. This is a very, very important matter. There have been a lot of charges made. We are prepared to respond to them. But we do not want to be unfair to Dr. Foster by denying the opportunity for our colleagues here that are interested in this in the Senate, and certainly the American people, who are paying attention to this debate, to be able to make the case for him.

Mrs. KASSEBAUM. Mr. President, if I may respond to the ranking member, the Senator from Massachusetts, there are many Members on our side, of course, members of the committee, as well as others, who do wish to respond. Many could not be here until between now and 10 o'clock. So it, unfortunately, appears that your side is using more time than ours. I will do the best that I can to encourage Members to come to the floor because time is going by. Many have wanted to give, and will give, some very strong statements.

I yield the floor.

Mr. KENNEDY. I yield 5 minutes to the Senator from Illinois.

Mr. SIMON. Mr. President, I thank my colleague, Senator KENNEDY, for the time and also for his leadership here.

Strangely, the issue of abortion is dominating our consideration. Here is an obstetrician/gynecologist who has delivered over 10,000 babies and was involved in 39 abortions, some of which he was just the supervising physician, where his name is on record. If he is confirmed, there will not be one additional abortion in this country because he is a Surgeon General of the United States—maybe less, but not more. I say ''maybe less'' because I concur completely with what Senator DODD had to say about the I Have a Future Foundation.

Here is a distinguished physician who took an interest in teenagers in a public housing project, and the statistics are squishy because they move in and out. But there is one statistic no one questions, which is that the dropout rate for these young people changed dramatically. And that has a great deal to do with abortion. There are a lot of things we do not know, but we do know that girls, as well as boys, who complete high school are much less likely to become pregnant and become teenage parents.

There are 1 million teenage pregnancies in this country, 400,000 of which end up in abortions. He could have ducked that. He could have been home watching television. He could have gone to the country club and played golf instead of working with teenagers. And he cared. We have an opportunity to nominate someone and to approve someone who cares.

Dr. Foster, if you are listening and viewing this somewhere, let me tell you that this is not a judgment on you that is being made in the U.S. Senate. You can be proud of your record; your family can be proud of your record; your profession can be proud of your record; your country can be proud of your record. What we are doing is making a judgment about the U.S. Senate, about whether we have the courage to do what is right. I am sure the chairwoman would agree with me on this. There was not a single member of the committee who listened to his testimony that did not come away very much impressed by Dr. Foster. If people had not taken positions prior to his testimony, he would be overwhelmingly approved here. We are judging ourselves.

Senator SPECTER mentioned Justice Thomas when he was up. Senator KENNEDY and I were on the Judiciary Committee and strongly opposed him. TED KENNEDY did not get up here and try to have a filibuster. PAUL SIMON did not try to have a filibuster. We let the process work. That is what we ought to do. That is what we ought to do in fairness to Dr. Foster, but it is also what we ought to do in fairness to the process, in fairness to the U.S. Senate.

I hope we do the right thing, and the right thing is to let us make a judgment whether or not he should serve as Surgeon General of the United States.

I yield the floor.

Mr. DODD. Is there some event going on that the other side does not want to show up this morning on this?

Mr. KENNEDY. I yield myself a couple of minutes. I thought we were supposed to meet at 9 o'clock, in any event, to go over the job training——

Mr. DODD. Hark, hark, I hear the roar of an angel here. The magic words and the doors open. We may now get some time on the other side.

Mrs. KASSEBAUM. I yield 15 minutes to the Senator from Texas.

Mr. GRAMM. Mr. President, I thank the distinguished chairman for yielding. I rise in opposition to the Foster nomination.

Elections have consequences. I think democracy is based on the principle that when the American people go to the polls and vote, that vote has an impact on government. I think when the American people voted for Bill Clinton, they either knew or should have known that his Presidency was going to mean a bigger Government. It was going to mean more spending. It was going to mean more taxes. It was going to mean more decisions made in Washington and fewer decisions made around the kitchen table. It was going to mean, on political appointments, that liberals were going to be nominated.

Let me say, Mr. President, we have considered hundreds of Clinton nominees. I am not aware of one who represented my philosophy or my values. Yet, with the exception of a small handful of those nominees, I have either voted for them or I have allowed them to pass without a vote. Why? Because I think philosophy alone is not grounds for voting against confirmation of any nominee, including Dr. Foster.

What I have tried to do is to set out three criteria for considering a nominee: No. 1, is the nominee competent for the position? No. 2, is the nominee credible? Can you believe what the nominee says? Is the nominee trustworthy in his or her career? No. 3, are the nominee's views—in the case of Bill Clinton—mainstream Democrat Party views of the type that the American people could have believed, could have known, or could have been expected to have known would be reflected in the people that Bill Clinton—as they would have known him and perceived him in the 1992 election—would nominate?

It is on the basis of these three criteria that I oppose the Foster nomination and will resist the nomination with my colleagues. It is on the basis of that opposition, on these three criteria, that we are going to have two votes on cloture. I hope and believe that those cloture motions will be defeated, and that the Foster nomination will not go forward.

Let me start with competence. Dr. Foster has held two important positions in his career that have been pointed out as his qualifications for this office. No. 1, Dr. Foster was the head of Meharry Medical College's obstetrics-gynecology residency program. During his tenure as head of that department, that program lost its accreditation.

I do not believe that is a strong recommendation. I do not believe Dr. Foster's record of having allowed the department, under his leadership, to lose its accreditation, is a qualification to hold a position which, in essence, is a position as America's physician. In that position he would oversee the presentation of reports and would actually make substantive decisions that would be binding on other members of the Government.

Mr. KENNEDY. Will the Senator yield?

Mr. GRAMM. I will not yield. I would be happy to yield when I finish. If you want to yield on your time, Senator KENNEDY, I would be happy to yield on your time, but I only have 15 minutes.

No. 2, Dr. Foster served as director of the I Have a Future Program. In the

stated mission is, to ''address the burgeoning problem of adolescent pregnancy.'' That is the stated goal of the program.

We have heard repeatedly Dr. Foster's leadership in this program stated as a qualification for being Surgeon General. Now, on two occasions, and only two occasions that I am aware of, there were evaluations of this program. In both evaluations, the 1992 evaluation and the 1994 evaluation, evidence, that was in no way challenged by the people who were running this program, was clearly presented that showed the program had failed to produce any change in adolescent pregnancy among the people who were involved in the program as compared to the people who were not involved.

In both evaluations, any difference in pregnancy rates that existed—apparently a slightly higher level in the first study, a slightly lower level in the second study—were considered statistically insignificant. In neither case did these two evaluations find any statistically significant difference in teen pregnancy rates among people in this program.

On the two major positions that Dr. Foster has held—the head of a department of a medical school which lost its accreditation under his leadership, and a program funded by charitable contributions which did not, in either study reporting on its achievements, achieve its goal—I do not believe that any private personnel firm in America would have recommended Henry Foster for a position in the private sector of the economy, based on these two factors, or would have ever come forward with his name as someone qualified to be Surgeon General.

I am not going to get into the credibility issue because it will be discussed at length by my colleagues. On virtually every issue, from the number of abortions he performed, to whether or not it was standard practice to have involuntary sterilization of mentally incompetent people, to the very nature of the I Have a Future Program, or from the simple question of whether Dr. Foster had ever had a malpractice suit or been the subject of litigation, on almost every subject which was raised in the hearing, in almost everything which has been debated, in almost every issue that has come from the White House or come from Dr. Foster, there has been a consistent credibility problem.

Now, I want to get to the real reason that I am opposed to this nomination. We have two good reasons that anybody could be opposed to it. I oppose it for those reasons. But the real reason I oppose it is, the American people would have had no reason to believe that the Bill Clinton running for office in 1992 who became President would have appointed such a person. They would have every reason to believe it today.

In 1995, after Joycelyn Elders, after gays in the military, after the Clinton Justice Department has entered every suit involving quotas and set-asides on the side of quotas and set-asides, after a series of appointments of people who hold radical views, today, no one is surprised.

Let me read four brief statements that in 1992, as candidate for President, Bill Clinton said. No. 1, ''I want the American people to know that a Clinton administration will put their values into our social policy at home;'' No. 2, ''I want an America where family values live in our actions, not just in our speeches;'' No. 3, ''The thing that makes me angriest about what's gone wrong in the last 12 years is that our Government has lost touch with our values while our politicians continue to shout about them;'' and finally, ''We offer our people a new choice based on old values.''

Now, some people have said this is a debate about abortion. To some extent, it is a debate about abortion. But it is a debate about radical views on abortion that were held by Joycelyn Elders and that are held totally and completely by Dr. Foster.

The view that, No. 1, we should not have parental notification for minors, a view that the vast majority of American people do not share. A view that abortion on demand should everywhere be the rule and the guiding principle, even in late abortions, even in those cases where States, today, are trying to exercise their legitimate rights under the Webster decision. I do not believe those views represent traditional American values. I do not believe they represent the will of the American people. And, finally, let me read one little quote which tells the whole story, from the ''I Have A Future, Family Life Module Staff Manual'' from September 1994, which was sent by the White House to the committee as a summation of the work of Dr. Foster on this program. Let me read one quote.

> Values are neither good nor bad. They are the way you feel.

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That in no way represents in any degree the statements that Bill Clinton made throughout his 1992 campaign. The Foster nomination is a nomination of a person who does not represent the traditional values of the American people and a person whose views are radical as compared to theirs and outside the mainstream that could have been expected of Bill Clinton when he was a candidate in 1992.

Final point: Why filibuster? Why not bring this up for just a simple vote and let the majority rule? The Founders, in setting the rules of the Senate, felt that if a determined minority had strong views that in order to shut off debate, it would require a supermajority. That provision has been used on numerous occasions by both parties and, by and large, it has served the interests of the public well. When Joycelyn Elders was nominated by the President, based on her record, based on her credibility, based on her qualifications, and based on how her views compared to the views of candidate Bill Clinton in 1992, I strongly opposed her nomination. But this was early in the process. We did not know what she would be like as a Surgeon General, and so no one prevented the vote.

We now have seen a disastrous tenure by Joycelyn Elders. We have seen a tenure that has divided the country. And I do not believe that we should confirm a candidate for Surgeon General whose views are identical to Joycelyn Elders' in nearly every way.

We made a mistake on Joycelyn Elders by not denying a vote on her nomination. That was a mistake I, for one, was determined not to make again.

Now, I believe that this is a nominee who is wrong for this job. If there is one position in Government that ought to be easy to fill, it ought to be Surgeon General. The duty of Surgeon General is to use moral suasion on public health issues. The duty of the Surgeon General is to unite the Nation in promoting good public health. And that ought to be an easy thing to do because nobody is opposed to good public health.

Surely, there must be one physician in America who voted for Bill Clinton, who supports him, who shares his views as stated in the campaign, who could do that job. Unfortunately, Dr. Foster is not such a nominee. I oppose his nomination. I have determined, along with my colleagues, to vigorously oppose it, to require that there be a vote on ending debate. For the sake of saving the time of the Senate, we have agreed to a procedure to vote on it not once but twice so certainly no one can say they did not get the opportunity to end this debate. But I oppose this nomination. This is the wrong person with the wrong views for the wrong job. I think we can serve the public interest by saying ''no.'' I think ''no'' is the right answer. I am confident we are going to say it.

I thank my colleague for yielding me the time and I yield back my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would like to yield myself just a minute. Does the Senator from Texas understand why the accreditation was lost during that period of time? Does the Senator understand? Has he had an opportunity to review the record and see the excellent exchange between Dr. FRIST and Dr. Foster on the issue of accreditation that responds to that point that the Senator has made?

Mr. GRAMM. I have had an opportunity to look at that. But I think the fact remains, whatever you are going to say about an individual and about his efforts, when you are talking about promoting a person to be the Nation's chief physician, it is not a qualification under any circumstance to say that under his stewardship his department at his medical school lost its accreditation. No matter how or why or what the circumstances, I do not think

anybody would say that is a qualification. Nor do I believe that his I Have A Future Program, when the only two evaluations that were ever done, to the best of my knowledge, showed it had absolutely no statistically significant effect on the objective it sought, should be considered a qualification.

Mr. KENNEDY. Mr. President, I yield time to myself. I wish the Senator had a chance to review the record, because the issue of accreditation was addressed very credibly by Senator FRIST, talking about exactly what happened, the loss of patients and the change of demography there and the leadership that was provided by Dr. Foster.

These are the kinds of issues that have been reviewed and re-reviewed and re-reviewed. I think having his comments about that and putting that in perspective has certainly responded to this kind of a charge.

I think we have gone through the issue—I will yield myself 30 more seconds—about I Have A Future. At least Dr. Foster tried and he was given an award by the President of the United States, George Bush. I did not hear the complaints about that program at the time when President Bush was identifying it. There is a solid record that they reduced the dropouts, continued education, and went on to successful careers.

I do not know whether the Senator had a chance to meet with many of those who came through the program of I Have A Future, because they came here and spoke to Members of the Senate who were prepared to meet with them, to talk about exactly the kind of difference that Dr. Foster had made in their lives.

The PRESIDING OFFICER (Mr. KYL). The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I yield the junior Senator from Oklahoma 5 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. I thank my colleague for yielding a few minutes here.

Mr. President, I was not planning to speak on this nomination today but while presiding for an hour and listening to some of the debate that has taken place, I felt compelled to do so because I think there is a misunderstanding as to why some of us are going to be opposing the nomination of Henry Foster.

I disagree with my friend, the Senator from Pennsylvania, Senator SPECTER, when he said that abortion is the sole issue. Abortion is not the sole issue in this nomination. I happen to be pro-life. It would be an issue with me if it were the sole issue, but it is not. The issue here in my opinion is credibility. I want to make it abundantly clear, when I vote against the nomination of Henry Foster to be Surgeon General, it is not because of his pro-abortion stand, or the abortion issue. It is his credibility.

I suggest that we recall—I do not think anyone in this Chamber knows what his real position is or how many abortions he performed because there has been such a variance in what he has reported and what he has said. I can remember when his name first came up and there was an article written in the Washington Post quoting him, quoting the White House, saying he had performed one abortion in his career.

Then, on February 3, 1995, the Department of Health and Human Services released a statement by Dr. Foster which stated, ''I believe that I have performed fewer than a dozen pregnancy terminations.'' This was a statement by Dr. Foster.

Then, back on November 10, way back in 1978, Dr. Foster, as a member of the Department of Health, Education and Welfare Ethics Advisory Board, is recorded in an official Government transcript saying, ''I have done a lot of therapeutic abortions, probably near 700.''

The documentation of that is HEW Ethics Advisory Board Meeting, Friday, November 10, 1978, Seattle, WA, page 180. The White House first claimed that the transcript was not genuine but later admitted its authenticity.

Dr. Foster initially claimed the transcript was inaccurate, that he did not make the statement nor did he do what the statement said, but later he said he did not remember making the statement.

At about the same time, in November 1980, OB/GYN News published a story regarding a study conducted on behalf of Upjohn Pharmaceuticals by Dr. Foster at Meharry Medical College in Nashville to develop an abortion pill based on the chemical prostaglandin. Dr. Foster has admitted that he was the research director of a clinical study in which 55 chemical abortions and 4 surgical abortions were performed on women participating in the study. Appearing on ABC's ''Nightline'' Program on February 8, 1995, Dr. Foster stated he was the physician of record in 39 abortions since 1973, since Roe versus Wade. He stated that the number of 39 did not include any of the 59 performed as a part of the study noted above since while he supervised the trial he did not personally perform these abortions.

So, Mr. President, to me regardless of whether your feelings are about abortions—again, I am pro-life—the fact is that either his memory is very bad or he has a habit of saying things that are not true. The inconsistencies are incontrovertible. I agree with my friend from Texas. But I think it is one more very significant reason to vote against the nomination of Henry Foster; and, that is, he says things that are not true.

So, Mr. President, I wanted to clarify why I will be opposing the nomination of Henry Foster.

I yield the floor.

Mr. KENNEDY. Mr. President, I ask unanimous consent to put in the RECORD the report of the Carnegie Corporation of May 3, 1995. They are the one funding the I Have a Future Program. This is what they say:

By 1994, a significant proportion of the young people who received ''I Have a Future Services'' showed improvement on several measures of success, compared to a control group. The Corporation has worked with Meharry Medical College in developing the program, and Meharry has been responsive to recommendations for ways to improve the research design and the curriculum. The Meharry team has courageously and thoughtfully tackled an important and difficult problem. ''I Have a Future'' should have useful lessons to impart to others attempting to enhance the life options of young people caught in adverse circumstances.

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

[From the Carnegie Corporation of New York, May 3, 1995]

I HAVE A FUTURE

Carnegie Corporation of New York funded the ''I Have a Future'' program from its inception in 1986. ''I Have a Future'' is a life options program addressing the multiple risks that many young people face in adverse circumstances—the risk of school failure leading toward dropping out, the risks of early pregnancy, the risks of drug abuse, and the risk of delinquency.

The program takes a comprehensive, problem-solving approach to the underlying factors involved in high-risk behaviors. It works to enhance young people's self-esteem, positive feelings toward family members, and a sense of responsibility toward their community. It urges them to pursue their education through high school and beyond and tries to give them a real sense of future possibilities.

The program combines many of the elements that researchers and practitioners agree are found in successful intervention programs for high-risk youth. These include individualized attention, collaboration with other community agencies, staff with specialized training, social skills training that helps adolescents both resist negative peer influences and adopt health enhancing behaviors, peer support, the involvement of parents, career/life planning, and opportunities for community service.

By 1994, a significant proportion of the young people who received ''I Have a Future Services'' showed improvement on several measures of success, compared to a control group. The Corporation has worked with Meharry Medical College in developing the program, and Meharry has been responsive to recommendations for ways to improve the research design and the curriculum. The Meharry team has courageously and thoughtfully tackled an important and difficult problem. ''I Have a Future'' should have useful lessons to impart to others attempting to enhance the life options of young people caught in adverse circumstances.

This is the Carnegie Corp. They are the ones who have done the evaluation. This is their bottom line.

I withhold the rest of our time.

Mr. President, I yield to the Senator from Louisiana 2 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 2 minutes.

Mr. BREAUX. Mr. President, I thank the Senator for yielding.

Mr. President, my colleagues, in considering the confirmation of a Presidential nominee I think that we as

Members of the Senate have an obligation to vote on the merits of the nominee's qualifications. I intend to vote for cloture so that we can vote on the merits of this nomination later.

I have differed with some of the President's nominees. In fact, I voted against President Clinton's previous nominee for Surgeon General. I feel very strongly that the Senate should not hide behind procedural votes that present the question of the nominee's qualifications from even coming up. We should have the courage to bring the nomination up, debate his qualifications, and then vote ''yes'' or ''no'' on the merits. I realize that there are differences of opinion among our colleagues on this nominee, and indeed, on what the proper role of the Office of the Surgeon General should be. This I would suggest should be debated and decided by a vote of the Senate on the merits.

I have met with Dr. Foster in my office and discussed his views and also his past practices. He has family connections to my State of Louisiana, and I found him to be a very sincere person. I think, Mr. President, that the Senate owes the President and this nominee a vote on his qualifications and not just a vote on whether to even bring it up.

Mr. President, I yield the floor.

Mr. KENNEDY. I yield 5 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I thank my friend and colleague from Massachusetts, and I thank the Chair.

Mr. President, this Senator has been serving the Senate now for 17 years representing my people of the great State of Nebraska and in speaking for them I have tried to support the wishes of the Presidents of the United States from all different parties whomever they wish to place in their key positions. I have not always done so, because I think everyone should be looked at on an individual basis.

Like the Senator from Louisiana who just spoke, this Senator voted against the last nomination by President Clinton for the position that is now being debated with regard to Dr. Foster. I never as long as I have been here have taken part in a filibuster to try to thwart the will of the majority of this body and the elected President of the United States, whether that President be a Democrat or a Republican, to go the filibuster route and thwart the will of the majority of this body.

Mr. President, it seems to this Senator that the debate on the Foster nomination has simply deteriorated into a series of pronouncements by his opponents as to how they have come to principled reasons for voting against him.

I may be wrong. But it is the opinion of this Senator that Dr. Foster is being crucified on the altar of Presidential politics, pure, and simple. That is not what all of the opponents of Dr. Foster are thinking in my mind. But it is to a considerable extent of some who are providing leadership. I think crucifying someone to enhance someone else's Presidential ambitions is a sorry sight, indeed, to see happening on the floor of the supposedly deliberative body that makes up the U.S. Senate.

I guess the feelings about abortion of this Senator are somewhat legendary in this body. I suspect that Dr. Foster and I do not see eye to eye on the matter of abortion. But despite the many pronouncements to the contrary, I believe any reasoned, seasoned interest of the U.S. Senate would recognize and realize that in all too many cases votes will be cast one way or other on this nomination driven by one's feelings or pressure groups on abortion.

Having said that, I probably do not agree directly with Dr. Foster on abortion, but I still say that all of the abortions that he has been involved in, as near as I can tell, are fully legal. He has broken no law of the United States of America. He has broken no laws of the professional organizations to wish he is a very prestigious member.

I sat down with Dr. Foster in a one-on-one meeting not long ago. I came away from that meeting convinced that here is a family physician that I would like to have being the family physician of my family.

How then could I not vote to support his nomination even though we might not agree on all issues? He is a very decent human being. He is an understanding human being. He has the bedside manners, if you will, of what most of us would think of as a family physician.

He is very much concerned about the falling morality in this country. No one has spoken out more effectively, in my view, than Dr. Foster with regard to out-of-wedlock births and what we are going to do about it. Certainly there has been some confusion with regard to some originating statements that came out of the White House early in the nomination process. But there are few among us who have never made some mistakes, made some errors. I do not think any of those mistakes or errors on the part of Dr. Foster were intentional or plotted or designed to mislead. I think he made some mistakes. Who of us has not made some mistakes?

It seems to me, Mr. President, that we in the Senate have an obligation to have a majority vote, if you will, on nominees for important high office sent to us for confirmation by the President of the United States. So I will vote for cloture.

I think it is somewhat discouraging that by and large Dr. Foster is being crucified on the altar of Presidential politics; that we are even having a filibuster and a cloture vote. But I do not object to the right of my colleagues, mostly on the other side of the aisle, who choose this route. That is within their right. I think it is not playing fair with Dr. Foster or a qualified nominee sent us for confirmation by the President.

So I hope that the Senate will have the courage to rise above the obvious attempt to crucify Dr. Foster for the sake of partisan Presidential politics. It is wrong. It should not be a part of this process. And I hope the Senate will rise to the occasion and enough Members on that side of the aisle will recognize that despite some reservations they might have, and in some cases legitimately so, the right way to proceed on this is to stop the filibuster, invoke cloture, and then let the Senate adopt by majority vote its will. For the Senate to adopt a majority vote under its will will require some help from the Republican side of the aisle. We do not have enough votes on this side.

Mr. President, I thank my friend from Massachusetts, and I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, thank you very much.

Today we face a set of questions. They are serious questions. They are questions of procedure, of principle, questions of candor and questions of credibility, for today we begin a debate not only about the qualifications of an individual to serve as Surgeon General but about the terms under which that debate will take place. It is a debate neither easily resolved nor easily limited. Neither is it a debate to be taken lightly.

There are those who have said that the Surgeon General's office is an office of just a handful of people, that takes up less than $5 million of the taxpayers' money and therefore does not deserve the scrutiny that it has been given.

I disagree. The office of Surgeon General speaks with enormous influence and persuasion. Power of the position lies not in its legislative authority but in its ability to influence both the tone and the content of our national conversation concerning some of the most profound challenges that we face. And today the office of Surgeon General is in serious need of repair. It is an office that has been discredited by the reckless agenda and the damaging statements of its last occupant.

What we really need now, what we need today, is a Surgeon General of impeccable credentials and unquestionable credibility. We need a national doctor who commands the confidence of the people and who can unite us in tackling our most pressing pathologies. When you need a doctor, you need someone that you can trust; you need someone of reliability; you need someone of consistency. You do not want to go back with the same symptoms and get a different diagnosis in each visit. You do not want to have a different prescription. You need the confidence of knowing that what is said is what is believed and what will be followed.

We have pressing challenges. We have pressing pathologies. They are pressing. Whether it is the continuing scourge of cancer, the crisis of drugs, or the tragedy of illegitimacy, the problems are apparent and yet the solutions are not so apparent.

There are those in this administration who look at these problems and say that the only solution is to accommodate people in their problems. To teens in the back seat of a car they would say, ''Better use a condom'' when they should be saying ''Stop. Get out; change your way of living.'' To addicts on the street, they would say, ''Better use a clean needle,'' when they should be saying, ''Stop. Get help; change your way of living.'' We do not need those who would say, ''How can we help you in a lifestyle which is threatening your health and the health of the American people?'' What we do need are people and leaders who will appeal to us at our best, who will appeal to the better angels of our nature, not seek to accommodate the basest of human desires. We need leaders who will agree with the great English writer and thinker G.K. Chesterton who wrote, ''What is wrong is that we do not ask what is right.''

We should be seeking to ask every individual, especially those faced by serious health challenges, how can we avoid these health challenges? How can we provide a healthy Nation by having the kind of consistent approach to behavior that will improve substantially where we are?

Frankly, there is not a lot that is right with this nomination. Initial appearances and claims were deceiving. If we were to just take what was originally given us, if we were to truncate or shorten the investigation, if we were to limit the debate, over and over again in this nomination we would find ourselves acting on the basis of inaccurate and false data, acting on the basis of alleged conclusions unsupported by the facts.

In a rush to market this nominee, the Clinton administration has displayed a reckless indifference to the evidence and a casual disregard for substantiating documentation. The frequent contradictions and serious misrepresentations about both the background and record of Dr. Henry Foster and about the performance of the I have a future program have in my mind seriously undermined the credibility of this nominee. They have led to confusion and to controversy surrounding the nomination. They have made any notion of a brief debate about this nominee impossible.

Let me just recap for a moment. Dr. Foster was introduced to the American people as the architect of a program touted as an abstinence-based program. The fact. It turns out that the program is based on weekly contraceptive distributions. A program which alleges a focus on abstinence has been unable to produce any abstinence brochures developed, produced, or updated under Dr. Foster's leadership. In fact, the only brochures that could be located regarding abstinence were brochures written, published, and printed after Dr. Foster's nomination and after the controversy over Dr. Foster's so-called abstinence program began.

Dr. Foster was introduced to the American people as a man behind the program touted as preventing teen pregnancies. President Clinton called it an unqualified success.

Well, it turns out, according to its own data, participants were more likely to have had sex than nonparticipants, and that contraceptive use was not increased among those who were participants as compared to those who were nonparticipants.

Maybe President Clinton was half right in calling the program an unqualified success. It certainly was not a success, but it was unqualified in terms of helping these young people, for more of the young people had been involved in sexual activity who participated in the program than those who never even participated in the program. And according to the reports promulgated or published by the program itself, the words of the report say that there was no statistically significant difference in pregnancy rates between those participating in the program and those not participating in the program.

And as Dr. David Murray of the nonpartisan research group STATS, stated:

> The program's statistical results do not support the notion that pregnancy prevention or even lowering the risk of pregnancy follows from program participation.

Dr. Foster was introduced to the American people as the doctor behind a program extolled as reaching multitudes of children. It turns out that more individuals drop out of the program than persist in the program for complete participation.

Just a week after the Labor Committee nomination hearings, I received a letter from Dr. Foster stating that he had inadvertently misrepresented his position to me when I asked about additional statistics or studies on the I Have a Future Program. During the hearing, it became apparent from the studies that were available that the program's marks were not high, that it was not achieving its intended result.

So I asked if there were other studies, if there had been other data accumulated, if there were evaluations, and he clearly answered no. But his letter which he sent to me says that what he should have said was, ''Yes, there are other statistics.'' As a matter of fact, there was not only an additional study but an independent analysis of that additional study. And this additional material reinforced the conclusions earlier made about the failure of the program; as a matter of fact, material which suggested a counterproductivity of the effort altogether.

But the additional material, that kind of a contradiction, just served to underscore and undermine further the credibility of this nomination, a credibility which was not sustainable and believable as it related to the number of abortions conducted, was not sustainable or believable about the quality and nature of the studies, was not sustainable or believable about the impact on young people.

As we consider a vote to decide whether or not we are going to have a complete, open and full debate on this nominee or whether or not we are going to cut off debate rather quickly, these revelations point toward more debate, more scrutiny, more exposure, not less. For it seems the more we probe, the more we discover, and never in this nomination have we found that the initial representations were supported by the evidence or the facts. It is always that the additional revelations somehow contradicted what the marketing by this administration had been.

Dr. Foster is a decent man who should be commended for his dedication and service to a desperately needy population. I do not think anyone would contradict that. But his nomination is more than a matter of personality, it is about standards of credibility and integrity, and it is about the belief in what things will remediate the pressing pathologies of our society. It is about an exceptional situation where an office has been discredited by an individual, our last Surgeon General, who discredited not only the office but the administration that she served. It is about this nomination, and this consideration is a debate about substantial and gross inconsistencies and contradictions that will continue to swirl around the nominee.

I believe that we need a nominee who inspires unquestioned confidence. We need someone that we have the kind of faith in that we expect in our family doctor. This nominee does not pass that test. The process has not provided a basis for that kind of belief.

The questions remaining are serious enough that I voted against this nomination in committee, and I believe that they are serious enough that we should all vote against any measure that would limit the debate over this nomination today.

I inquire as to what time remains.

The PRESIDING OFFICER. The Senator from Missouri has 52 minutes 45 seconds. The Senator from Massachusetts has 43 minutes remaining.

Mr. KENNEDY. Mr. President, I yield 1½ minutes to the Senator from Connecticut to clarify some points.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. I thank my colleague from Massachusetts. I just wanted to respond quickly to the Senator from Missouri on part of his statement. I sent a letter on June 13 to the majority leader in which I pointed out, again, the overwhelming evidence that this program, I Have a Future, has long supported abstinence—not just on some rhetorical statements, but rather based

on evidence, pamphlets, videos, so forth, that have been available going back to 1986. To suggest somehow that these were manufactured documents that came up after Dr. Foster's nomination is just not borne out by the facts.

Mr. President, the following are among materials that have been provided to the committee—by the way, I am not holding these, they have been part of the record. For example, the 1989 edition of the family life module staff manual specifically calls for the handing out of a pamphlet entitled ''Many Teens Are Saying 'No.' '' A copy of that pamphlet was provided to the committee. A 1986 pamphlet from the American College of Obstetricians and Gynecologists to which Dr. Foster alluded in his hearings called ''A Parent's Guide to the Facts: To Help Mothers and Fathers Talk to Their Teenagers About Sexual Responsibility.'' That was the title. It includes a similar abstinence message. The pamphlets are only part of this program. The same abstinence message is delivered through videos, training materials, group discussions, games, a variety of other materials, all of which are a part of the record.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DODD. Mr. President, I ask for 30 additional seconds.

Mr. KENNEDY. I yield 30 seconds.

Mr. DODD. Mr. President, all of that material has been made available to the committee. To say that these were manufactured documents that came up after the nomination is ludicrous. It is all there, it is all available to the committee. It is a longstanding record of supporting abstinence as part of that program. To suggest otherwise is unfair to the nominee. It is not an accurate reflection of the hearing record.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Thank you, Mr. President. I thank the Senator from Massachusetts.

Mr. President, I have listened to the debate for about the last 40 minutes or so. I have decided to not speak in the language of statistics or charge/countercharge. I sit on the Labor and Human Resources Committee and had an opportunity to hear Dr. Foster and go through this hearing with him.

I have heard some language from my colleagues, mainly on the other side, about appealing to the better angels of our nature, about values, about mainstream, and about competency. So let me try to, within my own way, within a very short timeframe, set the record straight.

Dr. Foster, during the committee hearing, was articulate, thoughtful and able to maintain his sense of humor. And more importantly, the committee and the American people came to see a compassionate, humane, caring theme—Dr. Henry Foster, the same Dr. Henry Foster known to his friends, to his family, and to his community and, more importantly, to his patients.

Sometimes we do not know what we do not want to know. We went through the debate on the I Have a Future Program over and over and over again in committee. The Senator from Massachusetts mentioned the Carnegie Foundation report. There is not one Senator here that should ever argue anything other than the question of why children have children is complicated and none of us really knows the answers, though we are all struggling to find those answers.

But Dr. Foster at least tried. During the hearing, every time I heard a criticism of this program, I asked my colleagues, ''Could you point to another program that had more success? Could you point to a more worthy attempt? If we want to talk about values and how you live your life, can you point to a doctor who has been more there with young people, who has cared more about this problem of teenage pregnancy, who has cared more about the problem of substance abuse, who has cared more about the problem of violence in the lives of all too many young people in America, who has cared more about the problem of HIV infection and AIDS?''

Mr. President, I must tell you that during the committee hearing—and I suspect on the floor of the Senate as well—there will be no answer to the question I just raised. The silence will be deafening.

Mr. President, Dr. Henry Foster does appeal to the better angels of our nature. I heard one of my colleagues earlier talk about the standards being competency, credibility and mainstream values. Competency? This is an Africa-American man who has a whole life of accomplishments. This is an African American man who has contributed enormously to communities and to our country. And mainstream values? What is more consistent with mainstream values than to take your professional ability and to use that ability in such a way that you give to the most vulnerable citizens in our country, you take your professional ability as a doctor and give it to communities and you serve people?

Mr. President, the key to a successful and effective Surgeon General is, will that Surgeon General have rapport with the people of our country? There is no question in my mind that Dr. Foster will. Dr. Foster, if you are watching this debate—and for all the people in the country that are watching the debate—Dr. Foster, be proud. This personal attack is all about politics in the worst sense. Be proud of your life. Be proud of what you have done. I believe, as a Senator from Minnesota, Dr. Henry Foster will serve our country very well.

I yield the floor.

Mr. COATS. Mr. President, I yield 10 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. First, I wish to compliment my friend and colleague, Senator COATS, for his work on this nomination. I also would like to clarify a couple of statements that have been made by some of the proponents of the nomination.

I heard some of the proponents say this nomination is about Presidential politics. I disagree. I have seen politics play a part in previous nominations for different things. But I will tell you as a person who has been involved in some of the battles on the office of Surgeon General in the past, I do not think this is about Presidential politics. I remember Dr. C. Everett Koop, who eventually was confirmed for Surgeon General, but he was held up for months, almost a year.

I remember Dr. Elders. I was involved in slowing down that nomination. I tried to defeat it. I tried to use parliamentary procedures, and I slowed it down for several months, because I thought she was the wrong person to be Surgeon General. That was not about Presidential politics, although people said that on the floor. Dr. Elders alluded to it being about race. And that was wrong. She was the wrong nominee and she was the wrong Surgeon General. She made a lot of statements, both prior to her confirmation and after her confirmation, that proved she was the wrong person to be Surgeon General.

And, Mr. President, I state that Dr. Foster is the wrong person to be Surgeon General. He should not be confirmed. It does not have anything to do with Presidential politics. He should not be confirmed.

Why? I do not think we can trust him. I think time and time again he has made statements that have proven not to be truthful. I do not think he has been honest. I do not think he leveled with the Congress or with the American people. I do not think somebody should be confirmed if they cannot tell the truth. That does not mean he is not a nice guy, or that he has not done some good things. But if a person does not tell the truth, then they should not be confirmed to a high-level office. As a matter of fact, I terminate the employment of people if they do not tell the truth. I think that telling the truth is a basic requirement.

You might say, well, where are you getting these facts, and where are these things coming from, and is this not just based on opinions not fact? Well, a lot of it comes from Dr. Foster himself. A lot of the statements he has made on very sensitive, important issues have been misleading, at best. A lot of people have said this issue is about abortion because a lot of people

do not want to have somebody who has performed abortions be Surgeon General.

I agree. I do not want to have an abortionist as Surgeon General. But I also will say that with the numbers in the Senate, that probably would not necessarily disqualify somebody or mean they could not get the votes to be confirmed. But what about when you have statements like, maybe I have performed one abortion—that came out of the White House. Then we had a statement issued by the White House and by Dr. Foster, and I will read this statement. They have a printed statement on February 3, 1995 that says:

In that period of almost three decades as a private practicing physician, I believe that I performed fewer than a dozen pregnancy terminations.

Fewer than a dozen. This is a release to try to stop the discussion of how many abortions Dr. Foster had performed, because they had a problem with their nomination. And then I find out in a Department of Health-HHS hearing, Ethics Advisory Board, on November 10, 1978, Dr. Foster talks about doing about 700 or so abortions. So to quote, it says, ''I have done a lot of amniocentesis and therapeutic abortions, probably near 700.''

That was Dr. Foster. What was the response? First the White House said, ''He was not there.'' ''It was not Dr. Foster.'' Then, ''He is misstated or misquoted and did not remember making the comments.'' But it is in this record. The White House was saying it is not true. It turns out, I think, that it is. In Dr. Foster's statements on abortion, he is misleading Congress and the American people. On ''Nightline'' he said, ''I have done fewer than 39 abortions.'' Well, he was not counting those 700 or so he referred to in his testimony before the Ethics Advisory Board nor was he counting the abortions that occurred during a study he headed at Meharry, where over 50 abortions were caused by use of a suppository.

And then also in Dr Foster's statements, he says, ''Well, I am not about abortion. I abhor abortion. I am against it.'' And then I look at some of the statements he made about the suppository, talking about, how this suppository can induce abortion in 1 to 7 hours and could be available for prescription in 36 months. We are going to have suppositories where everybody can get abortions; they can be quick, easy, and cheap.

He made that statement. So I am thinking, wait a minute, how is this consistent with ''I abhor abortion,'' but he is doing a study to see if we can have a suppository to make it available to everybody. Then I go back to a statement the White House released that said, ''I have done fewer than a dozen.'' On ''Nightline,'' he said, ''I did 39.'' And then we read a transcript saying he did 700. Then he is doing a study on a suppository where it could be cheap, free, and available to everyone.

Then I am when I read what Dr. Foster stated on February 27, 1995—that he is fighting mad at ''white right-wing extremists that are using my nomination to achieve their radical goals.''

That reminds me of some of the statements that Dr. Elders made. Who is he talking about? I am opposed to his nomination for a lot of reasons, but I have never put myself in that category. I do not know that people would put the New York Times in that category. Generally, it is a fairly liberal paper—editorially, at least.

On February 10, the New York Times says, talking about Dr. Foster:

Although Dr. Foster is a highly respected obstetrician, his lack of candor about his abortion record disqualifies him from serious consideration. Misleading statements by candidates for high positions simply cannot be condoned.

They go on:

Of course, the chief blame for this debacle lies with the White House, which once again put forth a nominee without adequately vetting the person's background or knowing the answers to potentially explosive questions. As a result, the administration put out false information on the number of abortions performed by Dr. Foster.

They summarize and say, ''It is time to withdraw the nomination.''

I think they were correct. However, the White House did not withdraw the nomination. They have been fighting for this nomination. They think this is important. They have tried to turn this into all kinds of different philosophical battles. They are wrong.

Some of my other colleagues have raised issues concerning credibility. I think there is a real credibility problem. Concerning the syphilis study, Dr. Foster stated, ''I didn't know about that until 1972 when it became public.'' Yet, I do not think that is the truth. Dr. McRae, who was president of the medical society at the time of the study, stated in a letter on February 28, 1995, ''I sat at the end of the table, and Dr. Foster sat some two chairs down from me on the left.''

I ask unanimous consent that the letter be printed in the RECORD.

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

L.C. MCRAE, JR., M.D.,
Mount Vernon, GA, February 28, 1995.

Mr. JERRY HORN,
Celebrate Life Magazine.

DEAR MR. HORN: With reference to your inquiry concerning the Tuskegee Syphilis Study, I will express my knowledge of the study as I know it to be.

Some weeks before the County Medical Society Meeting of May 19, 1969, I received correspondence from Dr. Bill Brown at Emory University, U.S. Public Health Service. He was requesting a meeting with the County Medical Society to discuss an on-going ''study''. Prior to this letter I had received an endorsement from Dr. Ira Myers who was the Alabama State Health Director calling my attention to the fact that I would be hearing from Dr. Brown.

The meeting was organized and held at the then Torch Cafe some four miles outside Tuskegee. Prior to that time we held, our meetings at John Andrews Hospital on Tuskegee Institute Campus. At this meeting were apprised, myself and everyone there included, of an on-going syphilis study that began in 1932 and was to run over a forty-year period. This study consisted of a double blind study of treated and untreated male syphilis patients. This was the first that any physicians in the County Medical Society knew anything about this study. Dr. Brown made his presentation requesting that we endorse the continuation of the study. It was my feeling and belief that the study was ending within three years bringing it to its forty-year period that was designed in the study. A list of the remaining patients in the study was given to each physician and I noted four or five of my patients that were on the list whom I had treated for latent syphilis not knowing that they were involved in the study.

Members attending the meeting to the best of my knowledge were myself, Dr. Brown, a colleague of his, Dr. John Hume, Dr. Thomas Calhoun, Dr. Howard Settler and Dr. Henry Foster.

I sat at the end of the table and Dr. Foster sat some two chairs down from me on the left. The presentation was one conducted over a thirty to forty-five minute period of time and it became our consensus that we would endorse the continuation of the study.

What is striking to me about the fact that those members present as named were unaware of the study, however no future conversations were held at either meetings or with me. When the news broke in 1972 about the Tuskegee Syphilis Study and Dr. Foster's name came up in that he was greatly helpful in working out the logistics of seeing that patients were located and treated and I felt that from my knowledge to the news media that Dr. Foster was doing a great service and I still feel that way to this day. What concerned me was that he was at the meeting and voiced no objection to the continuation of the study and yet became outraged in 1972 when approached by members of the press and other interested parties concerning the Tuskegee Syphilis Study.

The minutes of the meeting have not been located and through talking to some other reporters it was determined that Dr. Howard Settler, of course, was Secretary-Treasurer of the County Medical Society in 1969 and he stated that most recently, that his secretary had died and he had no idea where the minutes were.

If I can be of any further service to you, please advise.

Sincerely yours,
LUTHER C. MCRAE, JR., M.D.

Mr. NICKLES. Dr. Foster was vice chair of the medical society where they were being briefed on the syphilis study in 1969, yet Dr. Foster emphatically says, ''I was not there.'' He was not there. He performed a delivery that day. It turns out that the time of delivery that day did not coincide with the birth record of that child. There are so many inconsistencies, so many downright misstatements of fact. It leads me to conclude that Dr. Foster should not be confirmed.

Maybe one that troubles me, maybe it troubles me more than others, deals with the sterilization of the mentally retarded. This is sterilizing mentally retarded women without their consent. Dr. Foster admits doing this.

As a matter of fact, in the summer of 1974 he read a paper to a medical association that said, ''Recently, I have

begun to use hysterectomy in patients with severe mental retardation.'' Since then, both Dr. Foster and the White House said, well, that was medically accepted, that procedure was in the medical mainstream. That is false. That is outright false.

As a matter of fact, in Alabama, that summer the law on sterilization shifted dramatically and practices that were formerly perhaps part of the medical mainstream were no longer.

I have a whole list, including the case in June 1973, where Mary Alice Relf, age 12, and Minnie Relf, age 14, were surgically sterilized in a hospital in Montgomery, AL. To make the story short, this case went to court. This was in June 1973. HEW regulations were sought to protect the rights of all persons, including the mentally retarded, with respect to sterilizations paid for with Federal funds.

However, those regulations did not take effect because the Federal district court in Washington, DC, in March 1974, found HEW had no authority to fund any nonconsensual sterilization whatever.

Mr. COATS. Mr. President, I yield the Senator from Oklahoma 1 minute, additionally.

Mr. NICKLES. Mr. President, if we look at the inconsistencies, they said sterilization for the mentally retarded was in the medical mainstream. It was not.

There were court cases saying, ''No, do not do it.'' HEW said, ''We will not do it or fund it.'' Dr. Foster was making speeches to medical associations saying, ''We are doing it.'' There were cases, and there was an outcry against this activity.

If we look at this, if we look at the inconsistencies of his statements on what happened on the number of abortions, if we look at the syphilis study where he said, ''I don't know anything about it,'' and Dr. McRae and others say, ''Yes, he was informed about it,'' I think there are so many inconsistencies we really have serious questions about his honesty to Congress and to the American people.

Therefore, I happen to agree with the New York Times in their editorial that I read from, and their editorial today which states that Dr. Foster should not be confirmed by the Senate.

Mr. COATS. Mr. President, could I inquire how much time remains on each side?

The PRESIDING OFFICER. The Senator from Indiana has 40 minutes and 40 seconds; the Senator from Massachusetts has 35½ minutes.

Mr. KENNEDY. Mr. President, I yield five 5 minutes to the Senator from California.

Mrs. BOXER. Thank you very much, Mr. President. I thank my colleague from Massachusetts.

I am very disheartened and, frankly, disgusted with what is starting to emerge here on the Senate floor.

A defamation of a man's character. A defamation of a man's career by Senators who do not even know this man; by Senators who are not even physicians; by Senators who think they know more than professional organizations who have honored this man, than patients of this man who have come forward to testify to his decency, his qualifications, his integrity; by Senators who think they know more than President George Bush, who gave his program the 1,000 Points of Light Award; by Senators who think they know more than their own colleague, Dr. BILL FRIST, a Senator here, who said very clearly that he supports Dr. Foster.

I quote to my fellow Senator on the other side of the aisle, their own colleague, Senator FRIST: ''When people ask me why I support Hank Foster's nomination, I will tell them simply, because he's qualified to carry out the duties of Surgeon General, and I am confident he will perform that job well.''

I am disheartened that people would come on this floor and attack a decent man the way they are doing here today. I take offense at it. I apologize to Dr. Foster for it and to his family and his friends.

This is about politics. Politics of the worst sort. This is about pressure. Pressure of the worst sort. This is about sacrificing a decent man on the altar of right-wing politics in America.

I hope that if we do not win this vote today on cloture that the American people will rise up, that they will phone their Senators, because there is a chance to reconsider if we do not win today.

I am appalled at what I have heard here. I am appalled that people who claim to stand for family values and for a decent society, would attack a decent man in such a personal way.

I share the views of my friend from Connecticut when he says, ''Who in their right mind will put themselves through this and get caught up in Presidential politics like this?''

Dr. Foster is an ob/gyn—an obstetrician-gynecologist—and delivered thousands of babies. Mr. President, only a very small percentage of his practice involved abortion. And this is how he gets treated.

This is a man who, as my friend from Maryland said, could have been a wealthy doctor in the Northeast somewhere playing golf at country clubs on the weekend, but chose to go into the South where women had to travel 150 miles to get decent health care.

I have letters I will put into the RECORD from doctors who served with Henry Foster, who saw that compassion. And people in this Chamber with a cushy lifestyle get on this floor and attack him personally for giving up his life, so he could serve people in need, so he could turn around the infant mortality rate in the Deep South.

They say ''He will be like Joycelyn Elders.'' What does that mean? What does that mean? I have never heard that before on this floor. When we take up a nominee, that people compare him to the person who held the office before. What does it mean? Think about it. More than one person on this floor has said it. The only thing I can think of is that they are both African-American.

I ask you to search your soul in this debate and stop the personal attacks on a decent human being. If you want to vote against him, vote against him. He deserves his day.

I ask for 30 additional seconds.

Mr. KENNEDY. I yield the Senator 30 seconds.

Mrs. BOXER. He deserves his day. And filibustering this nomination is keeping him from his day.

If you do not think a woman deserves a right to choose, fight against it. Convince the American people, because they do not agree with you. They want Government kept out of that decision. Do not take it out on a man who brought thousands of babies into this world.

Oh, he forgot exactly the number of abortions. We have heard that. Maybe he forgot the exact number of babies he brought into the world. Would that change your mind?

Let us be fair. Let us stop the personal attack. Let us stop Presidential politics. Let us vote for cloture. Then let each and every Senator vote his or her conscience.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I yield 2 minutes, or more if he needs it, to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. Mr. President, today we are debating much more than the qualifications of Dr. Henry Foster. Few could argue he is not technically qualified. Furthermore, few, if any, would contest the fact that Henry Foster is a decent man who has worked hard and done much good in his lifetime.

I might also say, for my part I am not too caught up in these issues of credibility with regard to things that may or may not have happened a decade or more ago. I do not agree with my colleagues who say that you cannot trust this man. I hope the Members of this body are never judged by standards of consistency in other matters by which we judge some of these nominees.

However, Dr. Foster is caught up in something much bigger than himself and, therefore, so are the rest of us in this debate. Because of the way the President has used the office of Surgeon General and the appointments to it, we are now engaged in a heated national debate, one that I think is divisive and unnecessary. At a time when all of us, and especially the President, should be looking for ways to bring people together in this country, the President, by means of this appointment, has chosen instead to give a

symbolic victory to one side in the abortion debate.

The President has taken the office of Surgeon General, a rather obscure office with no real authority whose purposes have traditionally been to simply promote mental and physical health, and raised it to the position of spokesperson with regard to sensitive moral and social issues. Then he has proceeded to appoint Dr. Elders to that position, one of the worst and most controversial appointments in recent years.

With that legacy, naturally the position has become one of great sensitivity to many of the American people. It is time for an appointment that will symbolize a return to matters of basic health care. It is time for an appointee who will command the attention and respect of the Nation with regard to these issues.

Instead, the President has made an ''in-your-face'' appointment that was totally insensitive to the religious and moral beliefs of a large segment of the American people. One must assume the President knew the firestorm of divisiveness that this appointment would cause and that he simply assumed he would be the political winner in this national debate that would ensue, regardless of whether or not Dr. Henry Foster was confirmed.

That is not the proper use of the office of the Surgeon General and that is not the proper use of this nomination. Therefore, I choose not to endorse the President's actions and I will not vote to confirm this nomination.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I yield myself such time as I may consume. But I ask the Chair to inform the Senator when he has used 10 minutes of time.

Mr. President, I say to my colleagues that confirmations are probably one of if not the most difficult tasks required of us here in the Senate because we are not dealing with abstract statistics. We are not dealing with generalizations. We are not dealing with issues per se. But we are dealing with fellow human beings, their character, their lives, their experience—who they are.

When we make a judgment on a nominee, I believe it is a task that needs to be taken with some humility. None of us can claim a past without mistakes or without failings. Nevertheless, we are required to weigh the record against the criteria for service and come to an informed decision.

Let me begin today by saying what is not at issue in this nomination. Dr. Foster's commitment to the poor is not at issue in this nomination. He has proven that commitment over many years of service. Dr. Foster's engaging good humor is not at issue. He has shown it in our Senate hearings and at other times. And the administration's initial handling of the nomination should not be at issue. You can hardly blame Dr. Foster for White House incompetence.

My concerns in this process have been specific and they have been factual. I have attempted to raise some basic questions, questions that for me are determinative in my decision in terms of whether I would support or not support Dr. Foster. Has the nominee been candid? Has the nominee, during his career, displayed the ethical judgment and leadership necessary for the position of U.S. Surgeon General? Would this nominee unify our Nation on important health concerns, or would he fragment it through divisive moral debates?

I think it is interesting that today in the New York Times, an editorial appears addressing the question of candor. It is not, I believe, either inconsistent nor does it indicate some kind of a right-wing conspiracy that Members who have opposed Dr. Foster have raised the questions of his credibility and his candor with the Senate and with the public. I am quoting from the New York Times, which says:

> We continue to believe that Dr. Foster has forfeited any claim to the job by his initial lack of candor about his abortion record. He had a constitutional right, indeed duty,

According to the New York Times—

> to perform abortions for his patients. The number he performed . . . is in fact rather modest for a busy gynecologist serving a needy population.
>
> But numbers are not at issue here. The sad fact is that, from the day his name was announced, Dr. Foster seemed determined to minimize his abortion record and kept being forced to revise the numbers upwards. His misleading statements led us in February to oppose his candidacy. Nothing that has emerged in the later hearings or comments has justified those misstatements.
>
> . . . Dr. Foster's candidacy fails the candor test. He deserves . . . to be rejected.

Those are not words from this Senator. Those are not words from other Senators. Those are not words from the right wing. Those are words from the editors of the New York Times on the issue of his candor. So I think it is a legitimate issue. It is a legitimate issue to raise. It is a legitimate issue to evaluate. It is a legitimate issue by which to form a judgment as to whether this particular individual is the individual that is best suited for the position of U.S. Surgeon General.

It is not our job in a nomination debate to deal in general impressions. Our task is to investigate specific concerns.

The questions that I have raised I believe can be answered from the public record. In my opinion, none of these questions were answered satisfactorily during the hearing process; none in favor of Dr. Foster's nomination.

There are at least four concerns that I would like to raise before the Senate for consideration.

First, at the beginning of this process, I was concerned that Dr. Foster gave varying accounts of his record on abortion—numbers that could not be explained by a faulty memory alone. The nominee has tried to dismiss those concerns, but he has not in my opinion specifically answered them.

I am concerned with more than numbers in this matter. I am a pro-life Senator. I would prefer a Surgeon General who extends his compassion to the weakest members of the human family. For me, as a matter of moral principle, a commitment to speak for those who cannot speak for themselves.

Having said that, the numbers are not relevant as the New York Times has indicated. It would seem unlikely to me that someone who admits to performing 39 abortions would confuse that figure with performing just one or even 12, that someone who testified that he abhors abortion, and it is one of the most difficult things that he has ever had to do, would be confused over his involvement in abortion or would not remember what his involvement was, and only when pressed on the record would say, ''Well, yes, I guess the number is different than what I initially indicated.'' It is clear that Dr. Foster oversaw, in addition to the 39 that he admitted on the ''Nightline'' show, 55 additional chemical abortions, and 4 additional surgical abortions as part of a scientific study of which he was involved with.

We also know now from an official HEW transcript that Dr. Foster himself claimed to have done 700 amniocentesis and therapeutic abortions. We were never able to clarify just exactly what the breakdown was in terms of those abortions; where they came from. That is the clouded part of the record.

I cannot avoid the conclusion that Dr. Foster's frequently changing numbers and varying accounts of his personal involvement with abortions are profoundly troubling and difficult to explain as a mere lapse of memory.

Second, I am concerned that Dr. Foster may have been informed about the Tuskegee syphilis study before 1972, when it became widely known. That concern was not in my opinion satisfactorily answered despite my lengthy and thorough questioning of Dr. Foster on this subject in the confirmation hearing.

Dr. Foster declared in the Labor Committee hearing that neither he nor anyone in the county knew anything about the study. But we know that a number of medical personnel in the county helped conduct the study and knew that treatment was being denied to those black men who had syphilis in the name of continuing the study. We know that Dr. Foster was chief of obstetrics at the Tuskegee Institute, which provided services in connection with the study.

We know that Dr. Foster was vice president and later President of the Macon County Medical Society when that society was consulted regarding the study, and when that society agreed to cooperate with the public health service.

I have considerable additional material that if time would allow I would be

happy to share with the Senate. I have forwarded a letter to each Member of the Senate for their consideration detailing this information. If time permits, I hope to be able to examine some of that material.

The Washington Post editorialized that this was a critical factor in Senators' decisions of knowing what Dr. Foster knew and when he knew it regarding the Tuskegee study. That editorial claimed that, if he had knowledge of that study before 1972, he was not qualified for this office. I presented to the Senate a lengthy detailed record of information that I believe leads to the conclusion that Dr. Foster did know about the study and did not respond as he indicated.

We know that Dr. Foster, as then president of the medical society recalls, may have attended a meeting at which the medical society was notified of the study, and documents from the Public Health Service specifically state that each member of the society, which is a small society, 10 Members I believe, was provided with a list of surviving participants in the syphilis study.

The PRESIDING OFFICER. The Senator should be informed that he has consumed 10 minutes, and that he has 27 minutes and 10 seconds remaining.

Mr. COATS. I thank the Chair.

Let me state, third, that I was concerned that Dr. Foster performed sterilizations on the mentally handicapped, without proper consent. That concern was not fully answered.

Dr. Foster confirmed that this procedure was done, without the assent of patients and without a judicial decision. He and the White House defended this practice as mainstream medicine at the time, but we found that this procedure was not mainstream, even at the time. It was contradicted by Alabama case law, Federal regulations and professional standards.

I cannot avoid the conclusion that Dr. Foster, on this issue, displayed little ethical sensitivity, and demonstrated no ethical leadership.

Finally, I became concerned with both the inflated claims and the direction of Dr. Foster's I have a future program. This concern was not answered. In fact, it was decisively confirmed.

Dr. Foster and the White House claimed that abstinence was the bedrock of I have a future, and that the program itself was a tremendous success. Objective evidence undermines both of these contentions. Abstinence is not mentioned in two promotional brochures for the program, but contraception is prominently featured. In the program curriculum, abstinence gets a weak second billing to an aggressive contraception focus.

On this issue, the pattern of carelessness with the truth was repeated. When abstinence brochures were presented to the committee to show the nominee's commitment to this principle, the publisher confirmed the procedures were written just before Dr. Foster's selection and were ordered only a month after his nomination.

I have a future is a story of good intentions and poor results. Two evaluations by the program's own staff show it may actually have been harmful to teen participants. Although they started the program more abstinent than the control group, they ended up more sexually active, and no less pregnant at the end of the program.

Mr. President, I cannot avoid the conclusion that I have a future is a program operating on a failed theory, the theory that contraception can be an acceptable substitute for restraint.

In considering this nomination, I always come back to the unique nature of this office, an office with little staff, little funding, but exceptional influence. That influence is based on persuasion and respect alone. It is based on the ability to build consensus and provide moral leadership.

Dr. Foster has many good qualities, but they are not the qualities for this office, particularly at this time, in the aftermath of Dr. Elders. The reputation of this position must be rebuilt, or its entire future is in doubt. That job of rebuilding will require credibility, ethical judgment, and candor, and it will require in my opinion, a different nominee.

For all these reasons, I cannot support this nomination, and I urge my colleagues to defeat the motion to invoke cloture.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I yield 3½ minutes to the Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise in support of the nomination of Dr. Henry Foster and I think his background and training and education makes him uniquely qualified.

I rise today in support of the nomination of Dr. Henry Foster to be Surgeon General of the United States. Like many of my colleagues, I do have some reservations concerning the nomination. But in my judgment, there is nothing about his background that—under current law—should disqualify him from serving as the Nation's chief spokesman on health care issues. Based on his testimony before the Senate Labor and Human Resources Committee—which many hailed as an old fashioned tour de force—early last month and the accolades he has received from friends and associates since his nomination, he should be confirmed without further delay.

I think his background, training, and education make him uniquely qualified for this position, and I believe his testimony before the committee helped to dispel some of the fears of his opponents. I think we should be encouraged by this process. The May 2 hearing served the purpose for which confirmation hearings are designed—the nominee was able to make his case in his own way and in his own words, outside the realm of political caricature and interest group misrepresentation. His qualifications were already well-known; after the hearing, the nominee was well known. This is the way the process should work. We should now have the opportunity for an up or down vote, based on what we know.

What we know of Dr. Foster is that he has 38 years of experience as an educator, professional physician, and public servant. He was the founder of a program that addressed the issue of teenage pregnancy called I Have a Future, developed in 1987. The program stressed abstinence as a first method of reduction. It was chosen by former President Bush for his Points of Light Program.

Dr. Foster served 2 years of Active duty and 2 years of Active Reserve duty in the U.S. Air Force. He was instrumental in the consolidation of Meharry Medical College and Metropolitan General Hospital in Nashville, saving both from possible closure. He is a member of the prestigious Institute of Medicine and is a member of many distinguished medical advisory and review boards. He served as chief of obstetrics and gynecology at the John A. Andrew Memorial Hospital in Tuskegee, AL, where he still has the full support of the local citizens.

This nomination has been sidetracked by disputes about how many abortions Dr. Foster performed, whether he knew about a controversial 40-year syphilis experiment on black men conducted in Tuskegee, and what role he played in hysterectomies performed to sterilize mentally retarded patients during the 1970's.

I am personally opposed to abortion. My position is well known, since the national media once carried my statement: ''As a former fetus, I am opposed to abortion.'' But the fact is that it is a legal medical procedure that is generally carried out by obstetrician-gynecologists such as Dr. Foster. Reasonable people can debate what the law of the land should or should not be with regard to abortion.

Regardless of how many abortions he may have performed, the number is irrelevant because it is a legal medical procedure taught in many medical schools. As to the question of his candor in recalling the specific numbers, I suppose it would be fair to say he made errors in his recollection. I practiced law for 25 years in a small country town, and once I was asked how many murder cases I had tried. I gave an answer, and then upon reflection I realized the number I had given was incorrect. Then I got to thinking about it. Well, let us see. I did not think about this case, and I did not think about that case, and I soon realized that each time I thought about it I had really made a mistake.

Unless recollections are supported and refreshed by documentation, they are inherently hazy, especially in relationship to a long career. In hindsight, it would be clear that he should have not given out a precise number at the time. He may have made a mistake in

trying to neutralize a politically divisive issue. I do not think he intentionally misled the public, the administration, or the Labor Committee for his own personal gain.

The issue of when Dr. Foster knew of the syphilis experiments was addressed at the committee hearing. It has been alleged that he learned of these experiments during a May 19, 1969, briefing on the study. However, based on my reading of the record, Dr. Foster did not learn of the study until it became public in 1972.

I have a copy of an affidavit signed by Minnie Capleton Jamison, of Tuskegee, AL, whose son Dr. Foster delivered by Caesarean section on the evening of May 19, 1969. Ms. Jamison specifically recalls that part of the procedure occurred at 7 p.m., with the official medical record indicating that her baby was delivered at 9:17 p.m. The briefing on the syphilis study is said to have begun at 7 p.m. on May 19 at a medical society meeting. I ask unanimous consent that a copy of this affidavit be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. HEFLIN. His critics charge that even if he was not at the May 19, 1969, briefing, he could have found out about the study through specialty journals unlikely to have been read by Dr. Foster. To read all medical articles and all journals, few doctors would have time to treat patients. This standard clearly violates the bounds of reason and logic.

Finally, some charge that Dr. Foster should not be confirmed because he performed hysterectomies on four mentally retarded patients for hygiene or life-saving purposes. During his testimony, he responded that these were not ''forced'' or ''involuntary'' sterilizations under the guidelines in place at that time. Informed consent was given consistent with the medical ethics in the 1960's and early 1970's, the time period during which these four procedures were performed.

Senator FRIST's support is one of the most compelling arguments in his favor. As the Senate's only physician, he is in a unique position to judge the Surgeon General's qualifications and ability to serve. Just as we look to the legal community to make recommendations about Supreme Court and other judicial nominees, we should look to members of the medical community for their assessments of nominees that are relevant to their field. Senator FRIST—a physician and Republican—strongly supports Dr. Foster. Virtually every medical group has come out in favor of his nomination. Their recommendations should carry a great deal of weight as we cast our votes.

Some worry that like his predecessor, Dr. Foster will be a divisive figure when who we need is a unifier. But anyone who saw the way he conducted himself at the hearing cannot doubt his ability to bring people together and serve as a soothing force in our Nation. As a national official, his constituency and responsibilities will be vastly different and more comprehensive than as a private physician. There will be competing interests and views that he will have to take into account and often balance if he is to be successful. Like most nominees to high office, I expect Dr. Foster to grow and adapt to his new role in ways that will serve the country well.

Dr. Foster has the type of friendly, down-to-earth bedside manner that each of us look for in our own physicians. He has professional expertise and a keen realization of the health problems which confront our Nation that will guide him well in the office of Surgeon General. In deference to basic fairness, cloture should be invoked, and we should proceed to confirm this nominee.

EXHIBIT 1

STATEMENT OF MINNIE CAPLETON JAMISON

My name is Minnie Capleton Jamison, and I am a resident of Tuskegee, Macon County, Alabama. I reside at 1307 Gregory Street in Tuskegee.

On the evening of May 19, 1969, I gave birth to my son, Steven Darryl Jamison. Dr. Henry W. Foster was my obstetrician and guided me along the entire course of my pregnancy and delivered the baby. It had been a difficult pregnancy. I was confined to bed for seven of the nine months, and during the fourth month it was necessary for Dr. Foster to perform a surgical procedure to prevent a miscarriage. I had had two miscarriages before this.

I went into labor on May 18, 1969. I was admitted to John A. Andrew Memorial Hospital in Tuskegee that evening, and I was given medicine to slow labor. My baby was delivered by Dr. Foster on the next evening, May 19, 1969. The delivery was by Caesarean section.

I remember the evening well, but I do not remember all of the specific details. I know that Dr. Foster looked in on me from time to time, but I do not recall exactly what time he looked in or exactly how often he checked on me. I remember that the delivery took place at night, and that I was in surgery for approximately two hours. I recall specifically that part of the procedure was at 7:00. I recall that I was very nervous and I was hyperventilating. I was doing breathing exercises and I tried to focus on a clock at 7:00 p.m. I remember that the anesthesiologist was trying to calm me at the time, and that Dr. Foster joined and helped to calm me. I recall that all of this was before Dr. Foster started to operate, but I do not recall more specifically at what point this was in the procedure. I understand that the medical record indicates that the delivery took place at 9:17 p.m., and I do not dispute that record.

I also remember well what fine care Dr. Foster gave to me and my son. I remember that throughout a difficult time for me Dr. Foster was warm and attentive. I had been told by another obstetrician that I could never have a child. Dr. Foster told me that he would work with me and do everything humanly possible to make sure I could have a child, and he did. He was a very busy man with many patients, but he always took time and was always there to help. He was always very human and very professional. He is a fine man and will make a fine Surgeon General.

Signed: Minnie Capleton Jamison.

Date: 4/28/95.

Mr. KENNEDY. I yield 4 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. I thank the Chair.

Mr. President, today we should be debating the nomination of Dr. Henry Foster to be U.S. Surgeon General. After all, it has been 6 months since this Nation has had a leading public health spokesperson, and the clock is still ticking.

I will remind my colleagues that every 59 seconds a baby is born to a teen mother. Every 17 minutes in this country AIDS takes another American life. And this year, 46,000 women will die of breast cancer.

We should be debating the nomination of Dr. Henry Foster but we are not. We are debating whether or not to allow a vote on Dr. Foster in this Chamber. This is very unfortunate, particularly in light of the many health care crises in this country.

When I first met Dr. Foster, I was very impressed for one very important reason. He is an ob-gyn. I have fought long and hard, as this body knows, for women's health issues. Every wife, every mother, every sister, every daughter understands that women's health issues have been at the bottom of the barrel for too long in this country. I thought finally with an ob-gyn as Surgeon General, our health concerns would be brought to the top of the Nation's agenda.

Let me make this very clear. I see a no vote today as a vote to deny women, for the first time and probably for a long time, a voice from the top on women's health issues.

I was also impressed by Dr. Henry Foster's devotion to teens in our country. As all of you know, I have two teenagers at home. I listen to them in my living room, and I hear the same message: No one cares about them. Adults go in their houses; they shut the doors; they close the blinds and no one pays attention.

Dr. Foster paid attention. He was willing to dedicate his personal time and his life to give children a message of hope, of opportunity and chance. That is what his point of light program, I Have a Future, is all about. This Senate should not go on record dashing that message of hope for our children today. A no vote on cloture does just that.

Let us not forget the bigger picture and message in today's vote. For 5 months, Dr. Foster has gone through a very intense process: An FBI check, a search of his entire medical records; every word he has uttered has been magnified, expanded, looked at, and questioned, and he went through the entire committee process. He passed with flying colors.

I heard some of my colleagues on the Senate floor say that Dr. Foster was confused, that he was not forthright. Anyone who looks at the record, anyone who watched Dr. Foster before that

committee, feels as I do, that he is a man of dignity, of honor. He is honest and he is forthright.

Are we giving him a vote today on his nomination? No. We are arguing whether or not he gets a vote in this Chamber.

What does that say to Americans in this country who may at some point be asked to serve their country? If you cast a no vote on cloture today, it says loud and clear: Think twice; think about your entire life being scrutinized by this Senate body, think about giving up months of your personal life, your job, and your security only to hit the end of the line and not even get a vote on your nomination. A no vote today on cloture sends a loud, strong message for future votes on Presidential nominations, and I think the Members of the Senate should think long and hard before they cast their votes today.

This vote today will be a vote on fairness. Can this body be fair to a person? And can we be fair to ourselves and the Senate process? I agree with my colleague from Illinois, Senator SIMON, that this is not a vote on Dr. Foster; it is a vote on us. And meanwhile, I will remind my colleagues the clock is ticking.

I yield back my time.

Mr. COATS. Mr. President, could you just inform us of the remaining time on each side?

The PRESIDING OFFICER. The Senator from Indiana has 23½ minutes; the Senator from Massachusetts has 20½ minutes.

Mr. KENNEDY. I yield 4 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank the Chair.

Mr. President, I rise in strong support of the cloture motion on the Foster nomination. The only issue that we should have to address is whether or not the President's nominee to be Surgeon General is qualified for that office. If the answer is yes, he should be confirmed. If the answer is no, then that individual should vote against Dr. Foster's nomination.

But, Mr. President, under no circumstance is it appropriate or fair for us to filibuster, to erect extraordinary hurdles to a vote on confirmation, to use procedural tricks to avoid having to take up the question of whether or not the President's nominee is qualified to serve in this office.

In the first instance, Mr. President, I join my colleagues in saying to the world that Dr. Foster is eminently qualified to be Surgeon General of the United States of America. He is a physician with a specialty in women's health. He has been through fire. Every aspect of his credentials, his actual objective qualifications to serve have been examined and found to be worthy. He is eminently qualified to serve as Surgeon General.

With regard to his character, which is the second part of what we are supposed to look at, there is again in my mind no question that Dr. Foster has the highest integrity. No person, Mr. President, who worked with Dr. Foster in his 38 years of practice says otherwise. His colleagues, his patients, the community, those people who have known him for 38 years in professional life all have good things to say about him and laud him for his efforts in behalf of women's health.

And so the question becomes, as has been suggested by my colleagues, will the subjective bar, the subjective analysis be raised so that anyone who stands for an office such as this risks character assassination as a function of their willingness to serve our country? I do not think that that is appropriate.

Mr. President, the fact is that the opposition here is not as much about Dr. Foster as it is about culture wars. Abortion is not the issue here. Abortion, if anything, is the hook. It is the hook. I will ask the question to anybody, what obstetrician-gynecologist could say with certainty that they have never performed an abortion. It is a function of ob-gyn. Similarly, a syphilis study is not an issue. Again, he was a women's health specialist. The purpose for the opposition to use an emotional issue such as abortion is to divide America again. They are using this as the hook to raise the issue of culture war, to divide us one from the other.

I submit to this body that, if anything, Dr. Foster does not want to be a divisive force in our community's dialog. If anything, he wants to bring us together.

He has worked hard to raise the issues about what a Surgeon General ought to do. He has worked hard to articulate the kind of values that he respects. He has actually stood for the last 139 days going through all kinds of changes and difficulties, 139 days in order to make the message that we have to come together as a community, as a nation in order to reclaim our youth, in order to restore and rekindle hope, in order to make the Surgeon General's office a force for healing.

That is the mission that Dr. Foster has attempted to undertake. He is, obviously, committed to this. He has been through what can be called nothing less than trial by excoriation. And yet he has survived all of the attacks with his integrity intact and with his ideals unimpeached.

So the only question, again, I think we have to face right now is what kind of ideals will be represented by the action of this U.S. Senate. Will it be the crass politics of obstruction and division, or will it be a message of fairness? Will we allow this nomination to come to a vote, or will we erect additional procedural hurdles against that?

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator's time has expired.

Ms. MOSELEY-BRAUN. In conclusion, I just say that Dr. Foster's nomination deserves a vote, America deserves a vote, and I hope to have the support of my colleagues for this motion to invoke cloture. Thank you.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 3 minutes to the Senator from Kentucky and 1 minute to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from Kentucky has 3 minutes.

Mr. FORD. I thank the Senator, and I thank the Chair.

Mr. President, I, like Senator DOLE, oppose Dr. Foster's nomination to be Surgeon General. However, I refuse to become a pawn in Senator GRAMM's Presidential politics. This cloture vote has Presidential one-upmanship written all over it, and it is a disservice to the American public.

I agree with my colleague who said this vote represents the first Republican primary. This is about Presidential politics, pure and simple. If we had played by these rules in the past, James Watt would not have become Secretary of the Interior, Ed Meese would not have become Attorney General, Samuel Pierce would not have been HUD Secretary, Clarence Thomas would not be on the Supreme Court, and Robert Bork would not have had an up-or-down vote.

Mr. President, I will vote against Dr. Foster, but I think he is entitled to a vote. I agree with those who say we should vote to invoke cloture so then we can vote for the nominee. I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota has 1 minute.

Mr. DORGAN. Mr. President, sadly, we put people on trial too much in politics in our country today. That is what has been done to Dr. Henry Foster by his opponents, both in the Senate and in the press. He has been put on trial, accused with reckless charges and careless words designed to tarnish the reputation of a good man.

For instance, I heard at one point in this debate that Dr. Foster had performed hundreds of abortions. I asked the opponent who charged that how he had arrived at that number. He showed me a number that included abortion and amniocentesis. I asked, ''Do you think amniocentesis is an abortion?'' because that is what was included in that number. That is an example of the reckless charges designed to discredit the reputation of a good man.

I do not know Dr. Foster very well, but I do know from testimony by his friends and colleagues that he is a good, decent, honest man who has dedicated his life to helping others.

Sadly, he has been put through a political meat grinder, as happens all too often these days. The treatment of this nominee has been fashioned to serve the political interests of some in the Senate, in my opinion. But we can correct that today. We can do justice to Dr. Foster by voting to invoke cloture and then by confirming his nomination to be Surgeon General.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I yield 10 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi [Mr. LOTT] is recognized for 10 minutes.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Indiana for yielding me this time. I commend him for his efforts with regard to this nomination. I know he has been diligent in trying to find the truth, and in this instance, it has not been easy.

I want to begin my remarks by frankly questioning the current scenario of the office of Surgeon General. Over the past few years, instead of being a position that brought us together in advocacy of good health policies, it has become a position that divides us. It has made us fight over various issues.

I have come to question whether we really need this position. Why should the Federal Government have a paid advocate in this office? There is a cost involved—about $1 million. There are a number of staff people involved, along with a travel budget. I have reached the conclusion that the Surgeon Generalship is a position we probably do not need anymore. What is done within that office should be done by other agencies within the Department of Health and Human Services or elsewhere in Government and the private sector.

The second point I want to make needs a longer explanation. The Foster nomination came to the Senate in the aftermath of the situation involving the former Surgeon General, Dr. Joycelyn Elders. There were many problems associated with her tenure in office, with what she had to say and how she said it.

Many of us raised concerns about her conduct as Surgeon General, and eventually, of course, the President had to call for her resignation, because she was advocating things that most people in America certainly were not comfortable with. I do not believe Dr. Foster would do the job in the same way. I think his approach would be gentler. I am certain he would not say some of the things that Dr. Elders said when she was Surgeon General. But he has held some offices and has otherwise been associated with organizations which advocate the very things Dr. Joycelyn Elders advocated. I believe that is the wrong approach to the office of Surgeon General.

More than ever before, if we are going to have that office, we need a doctor who will advocate health measures which are in the overall best interest of our country and with which most Americans can agree. Maybe it is good to have some leading-edge comments every now and then, but we need not have those issues flaunted in our faces, as they have been for the past couple of years and, frankly, as they were over a longer period of time. That is one reason why Dr. Foster, given some of the things in his background, was a mistaken selection by the President of the United States.

My next point is extremely important: No, we should not blame Dr. Foster for the mistakes of the administration in handling his nomination, but we should expect to get candid, direct, and accurate information on presidential nominees. There is no question that some inaccurate information was given to Senators, whether by the White House or by Doctor Foster himself. The Senator from Kansas, NANCY KASSEBAUM, certainly was given some inaccurate or incomplete or misleading information. Senator KASSEBAUM is not given to overreacting, but she was one of the first to raise concerns about the way the Foster nomination was handled.

Then we went through the process of the administration's changing information it had previously provided concerning Doctor Foster's record. Clearly, it was not handled well by the administration. That alone is not enough to reject the nomination, but it certainly is a problem.

What bothers me more than anything else about this nomination is that lack of total truthfulness, that changing of important information. Maybe it was because Dr. Foster was not familiar with the fast ways of Washington. Maybe he sometimes talked without checking his facts. But the misstatements happened several times. There also were slips of the tongue when he questioned the motives and the background of the people who opposed his nomination.

He subsequently said that was a mistake. But there is a pattern here, a pattern of inadequate, insufficient or incorrect information from the administration, a pattern of changing information from the nominee, and a pattern of talking before thinking. That is what got Dr. Elders in trouble. Why does anyone want to repeat that experience?

Dr. Foster got off to a bad start by repeatedly revising his information about the number of abortions he had performed in his career as an obstetrician-gynecologist. That was only the first of many confusions which have, collectively, eroded his credibility.

For instance, we were told that his I Have a Future Program has had marvelous results. I think the concept of that program is good. I would like to see it work. I like the idea of abstinence education for teens, helping them live up to their responsibility to avoid sexual activity. But then we found out that that was not quite the case with Dr. Foster's program.

We found, moreover, that Dr. Foster was associated with organizations which, in fact, took quite a different approach to teen pregnancy. He has had a long and close relationship with Planned Parenthood, which has for years opposed abstinence-based programs like those funded under HHS' title XX program. Indeed, Dr. Foster held a high profile in that organization at the very time it was fighting in the courts against a Tennessee parental notification law regarding abortion.

We also found what appears to be the very belated printing of brochures stressing abstinence for his I Have a Future program. These documents seem to have been ordered from Meharry Medical College, where Doctor Foster is dean, on March 8, 1995, weeks after his program had come under fire for its emphasis upon teen contraception instead of restraint. This had all the earmarks of an organization doctoring its records to sway a Senate committee. The shipping invoice for the pamphlets was dated March 23, 1995. They were passed out to the Labor and Human Resources Committee at Dr. Foster's hearing in early May.

So, once again, it seems that truth is an evolving matter where Dr. Foster is concerned. It has been shaded this way and that as we have gone through the process. Another example—and something about which I have a great deal of concern—is the issue of involuntary sterilizations. At a time when the involuntary sterilization of retarded girls and mental patients had provoked national outrage, Dr. Foster reported his own expertise in that regard in an article in the Southern Medical Journal. The article appeared in 1976, 3 years after an especially shocking case—the Relf case—occurred in Alabama, where Dr. Foster was a prominent ob-gyn. The Federal courts, the Congress, the Department of HEW were all involved. But the furor seems to have been lost on Dr. Foster.

Equally troublesome is the cloud of uncertainty that now obscures Dr. Foster's role in the notorious Tuskegee experiments, conducted over decades in his home county of Macon, AL. It stretches credibility to be told that a physician of Dr. Foster's prominence—indeed, the vice president of the County Medical Society—did not know about all that.

How could he not have known that his fellow doctors had agreed to withhold antibiotics from men being tortured and killed by syphilis? I find it hard to believe that this information escaped him until it was nationally publicized—and he denounced it—years later.

The Foster nomination has presented a persistent pattern of misinformation, not just the instances I have mentioned here, but others, like his leadership of a research project at Meharry in conjunction with a pharmaceutical company. We still need a clearer account of that episode, why it was undertaken and why it was eventually abandoned.

All these things considered, I think it would be a mistake to confirm this nominee. We do need more information, and more accurate information, before accepting Dr. Foster as Surgeon General.

Dr. Foster's advocates are right in one regard. The real vote to confirm or reject his nomination will occur today at noon. That is the vote on invoking cloture. That is the vote that counts.

I believe this nominee should not be confirmed. I urge our colleagues to consider the many serious reasons why I and other Senators have taken that position. It is not just the abortion issue, but the many questions about the veracity of the nominee concerning programs he was involved with, organizations he was associated with, and medical controversies in which he played a part.

I urge a vote against the cloture motion.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I thank the Senator from Massachusetts. Just in very brief form, because time is so limited, I sat here in amazement and I listened to what was being said very carefully. I just heard that Planned Parenthood is opposed to abstinence for teenagers. I have never seen that mailing or that program. It is absurd. What we are talking about is a man and his professional qualifications to fill this job. He did not run for office. That was not his credentials. He was not looking at how this might be one day when he was considered for a nomination to a high post. He did what his conscience and the Hippocratic oath had him do. He has been endorsed—I heard this morning on the radio, that Dr. McAfee, the president of the American Medical Association, heartily endorses Dr. Foster and his qualifications. Further, he has been endorsed by the Association of American Medical Colleges, by the Association of Academic Health Centers, the American Academy of Pediatrics, the Tennessee Medical Association, and the American College of Physicians. They all know he is qualified.

The problem here is not Dr. Foster's qualifications. The problem here is politics at the expense of the health of the American people. The problem is that we are playing Presidential politics right here in this room. It is pitiful. Talking about the fairness of the system and how it is equitable for a minority to restrict the majority view, why can we not have a straight up-or-down vote on this without threats of filibuster? When it was Robert Bork or John Tower or Clarence Thomas, even though there was strong opposition, many Senators opposed them. The fact is that the votes were held here, up or down.

So when I sit here and I listen to what the debate is about, the debate is not about Dr. Foster and it is not about fairness to the American people; it is about who can score points. And they score points, unfortunately, while Americans die. Every day, 2,000 Americans die from heart disease. Every day, close to 1,200 men and women die from tobacco-related illness, people die from breast cancer, and every day 110 men and women and children die from AIDS. These figures are tragic, but what is more tragic is these deaths result from preventable diseases.

I hear people castigating this very well-qualified physician, this compassionate human being, who lifted himself up by his bootstraps, and criticize him for what he did and for what he thought was right. I am not much for biblical quotations, but John said, ''He that is without sin among you, let him first cast a stone.''

I hear mistakes being made all over the place here. We have an Ethics Committee that hears breaches of conduct by the Senators. And, yes, this man is condemned because he did what his conscience and the law allowed him to do. I think we ought to get an up-or-down vote on this. I hope my colleagues will vote for cloture and we can confirm Dr. Foster's appointment.

Mr. KENNEDY. I yield 6 minutes to the Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise in support of a vote for cloture. I believe this would probably be the first time in history if cloture is not granted for a nominee that has come out from a committee with a positive recommendation to be denied an up-or-down vote.

I also recognize from listening to those who have opposed granting cloture, that it is critical that we have debate on Dr. Foster, because there is so much information out here which is incorrect.

I sat through the hearings, and I have gone through thousands of pages of documentation, and I came to the conclusion that a President has the right to have people around him who he wants to have, and he has that right here.

There is nothing that should stand in the way. First of all, there is no evidence whatsoever that this man is not competent to handle the job.

Second, there is no credible evidence that there is any flaw in character or any reason why this person should be denied the job.

To deny Dr. Foster the ability to have his nomination debated is indefensible, in my mind. I am not going to go into all the issues, but there are a couple I would like to straighten out.

First of all, the Tuskegee situation. All of the argument has been about who knew what when. When did it occur? Was he there? Was he not? What we do not know is whether at that meeting which the CDC held in Tuskegee in the late 1960's, with the doctors of Macon County that they were told anything about the fact that there was a group of black men being denied treatment in order to see the difference between treating people with syphilis versus not treating them. That did not come out until the 1970's, and all hell broke loose, and everyone said what a shocking thing.

Whether Dr. Foster was there—the evidence was clear he was not—but even if he had been there, he would not have learned anything.

All of the information that has clouded that, strike it out of your mind, and remember that nobody at that time other than CDC knew the experiment was being conducted. Whether he was there or not is irrelevant.

Second, another issue where there is confusion, as the previous speaker from my side of the aisle got into, there were two situations with respect to a sterilization situation which occurred in this country at a time when the decision was, and it was sort of ethical and considered wise in many respects, to sterilize seriously mentally deficient people. That had nothing to do with Tuskegee. The previous speaker got that confused. Make a judgment, but it was not unethical or improper at that time. Later on it was discarded as a methodology.

Third, the abortion issue. Yes, there was changing information, confusing information, things hard to follow. That was not the doctor's fault. He was very clear. He searched his records and found out, over 30 years, performed 39 abortions, or was responsible for them. Thirty years—that is not a doctor who is working in abortion clinics. He is an ob-gyn. Obviously, he is going to have a number of abortions during that period of time, to save the life of the mother or whatever.

The abortion issue is one that has been made to be a key issue, when it should not be here at all.

I would ask Members to try and remove from your minds all the discussion we have had, and ask the simple question: Is this person deserving of the right to have a vote of up or down? That is the crux of it.

We are having this cloture vote, because there are at least 51 votes that will support Dr. Foster to be the next Surgeon General of the United States. This is an attempt to use the cloture—and some of these issues which the information is, at best, misunderstood—to try and prevent or even avoid having that opportunity to vote.

I urge my colleagues to seriously recognize and understand, first, the facts are very clear that the doctor ought to be recommended. The committee recommended him. More importantly, that he ought to be entitled to an up-or-down vote on the issue. We will discuss it and spend a day or so discussing these things so we can clear this up in everyone's mind.

I spent days on this, and I am confident there is no reason this doctor should not be confirmed. He certainly should be allowed to have a vote up or down on whether or not he should be confirmed to be the next Surgeon General of the United States.

I yield the floor.

Mr. COATS. Mr. President, I yield 2 minutes to the Senator from South Dakota.

Mr. PRESSLER. I thank my colleague.

Mr. President, I rise in strong opposition to the nomination of Dr. Foster. He does not represent the family values that my State seeks.

Also, I am very concerned about inconsistent statements. As has been stated on this floor, not to paraphrase from others, but the real issue should not be whether or not young people will lose a clean needle when they use drugs. The Surgeon General of the United States should encourage them to say ''No'' to drugs.

We really need to take a look at this position of Surgeon General and see whether it even needs to exist in the future. The Secretary of Health and Human Services is supposed to do this function.

If we are going to have a Surgeon General he should be a role model for family values, for what our country believes in. He should be a strong opponent of the use of drugs and of teenage pregnancies, stating his opposition to it. Not stating other side issues such as using clean needles, et cetera, et cetera.

I am strongly opposed to the nomination and shall vote against cloture. I yield the floor.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 4 minutes and 30 seconds.

Mr. KENNEDY. I yield 1 minute to the Senator from California.

Mrs. BOXER. Mr. President, many of my colleagues have quoted from newspapers—Senator COATS quoted from the New York Times. But he failed to say something important: The New York Times says Foster deserves a vote. So do not just give half the story. They are calling for a vote. We should vote ''yes'' on cloture.

The Boston Globe said it well. ''It is time for the opponents of Foster to choose: Either let Foster be confirmed without a fuss, or seek protection under the political equivalent of chapter 11, because all their arguments are bankrupt.'' They are bankrupt.

Then the Republican San Diego Union Tribune, quite a Republican editorial board, said: ''The more we learn about Foster, the more convinced we are he would be an effective Surgeon General.'' The Chicago Tribune says Foster's prospects for approval by the committee appear to be good, and of course they were right. The Republican committee sent him to this floor positively, but then they add, ''A foul situation is developing in the Senate.''

My friends, a foul situation has developed in this Senate. This Republican Senate is trying to deny this man a vote.

Mr. KENNEDY. I yield 1 minute to the Senator from Washington.

Mrs. MURRAY. Thank you, Mr. President. I thank my colleagues who have been here on the floor this morning working very hard to bring this nomination to a vote.

I remind everyone that the clock is ticking on the health of all Americans. Our Nation has been without a Surgeon General for 6 months.

I see this vote very clearly today: We are not voting on the nomination of Dr. Henry Foster today. We are voting on the opportunity for Members to vote on that nomination. A ''no'' vote will send a very clear message to women across this country. It denies women the opportunity to have a Surgeon General who specializes in women's health care.

A ''no'' vote denies teenagers across the Nation a spokesperson who can give them hope and opportunity and who believes in them.

A ''no'' vote sends a message to all Americans that public service is not something they should get involved in.

A ''no'' vote denies this country the service of not one man, but many future leaders.

A ''yes'' vote says this body is fair and will allow the vote of Dr. Foster to come before this body.

Mr. KENNEDY. Mr. President, 1 minute to the Senator from Maryland.

Ms. MIKULSKI. Mr. President, this debate of Dr. Foster has often characterized him in a way that I think is misleading. Dr. Foster has been characterized as someone who is not the man that I met in my office.

Dr. Foster came and met with me, both in my office and met in the committee, and showed the kind of person we want to be the Surgeon General of the United States.

First of all, he showed backbone and he showed guts. Anyone of a lesser personality would have flinched under this new toxic atmosphere in which we find Presidential nominees going forward. But he was willing to speak to both friend and to foe, to speak with candor, grace, dignity, quiet good humor, the willingness to set the record straight.

That is why we can see why he was so well-regarded by his patients and by his own community with the bedside manner.

Mr. KENNEDY. Mr. President, I yield myself the remaining minute.

The issue before the Senate comes down to a simple question of fundamental fairness. I believe that a majority and probability an overwhelming majority of our Republican Senate colleagues know in their hearts that Dr. Henry Foster deserves to be confirmed as the next Surgeon General of the United States.

Dr. Foster is a highly principled physician whose honesty, integrity, and outstanding character shine through. His extraordinary record of achievement shows, beyond any reasonable doubt, the lives he saved, the doctors he has trained, and his pioneering leadership against teenage pregnancy.

President George Bush sought to highlight his I Have a Future Program in Nashville, TN. He honored it as one of his 1,000 points of light.

We all know what is happening here. The normal confirmation process has been sidetracked by Republican Presidential politics. Dr. Foster deserves a vote. I hope the Senate will vote cloture on this so that he can be judged fairly and honestly and candidly.

Mr. SIMPSON. Mr. President, I rise today to speak in support of Dr. Henry Foster's nomination to be Surgeon General.

Since February 2, when President Clinton first announced his nominee for Surgeon General, a wide range of criticisms and attacks have been leveled against Dr. Foster. I believed and said from the very beginning Dr. Foster deserved the same chance as every other nominee to address these concerns in a committee hearing. That indeed is the reason for the hearing process.

I further stated that, although I had not yet found any valid reason to oppose Dr. Foster's nomination, I would withhold my final decision until after the committee hearings were held. Now that the hearings are concluded, I have decided that I will vote in support of Dr. Foster's nomination. I believe any questions as to whether or not Dr. Foster is fit or qualified for this position were dispelled during the hearings. I think it is fair to say that this was never the chief concern about the nomination.

I realize that there are some people who oppose his nomination because he, like many obstetrician-gynecologists, performed abortions in the practice of his profession. However, I do not believe Dr. Foster should be disqualified from serving as Surgeon General solely because he performed abortions. We face the possibility of such a history whenever we consider an obstetrician-gynecologist for this position.

Much has been said about Dr. Foster's ''credibility'' due to some initial confusion about how many abortions he performed in the course of practicing his profession for more than 20 years. Dr. Foster addressed these concerns honestly and forthrightly in his opening statement before the Labor and Human Resources Committee.

In that statement, he asserts that:

> I regret the initial confusion on this issue. But there was never any intent to deceive. I had no reason to do so * * *. I have worked very hard to establish a record of credibility and ethical conduct. It is open to anyone who chooses to scrutinize it.

I think that those of us in public life should be able to eternally empathize with him about the difficulty of ''getting it exactly right'' when speaking to a reporter.

Not only did Dr. Foster address the ''credibility issue'' in his statement, but he also outlined what kind of Surgeon General he says he will be and how he intends to focus on the ''full range of health challenges'' facing our Nation, including cancer, AIDS, heart disease, maternal and child health, aging, substance abuse, violence, and teen pregnancy.

Another issue raised during the hearings was the question of whether or not Dr. Foster had personal knowledge prior to 1972 of the ''Tuskegee study'' in which black men were denied treatment for syphilis in order that doctors could observe how the disease progressed. This experiment was abruptly terminated in 1972 when it was publicly disclosed that then-available treatments were being withheld from these men. When questioned at the hearings, Dr. Foster stated emphatically that he had no knowledge of the study before 1972. In fact, Dr. Foster never approved of or in any way cooperated with this study. In 1972, when he was fully informed of it, he immediately called for the study to be stopped and for the surviving men to be treated.

The real issue about this nomination, for me, is not ''the bad things'' Dr. Foster did not do, but the many noble, altruistic things he has done. I have had several opportunities to visit personally with Dr. Foster and to question him on various issues. He described to me his work with disadvantaged youths and the role he played in creating the ''I Have a Future'' Program that encourages teens in some of Nashville's toughest housing projects to be sexually abstinent and to avoid drugs. I am impressed by the fact that Dr. Foster has spent his lifetime preaching abstinence. It is not just a slogan or a high-minded phrase for him. He has been right down in the trenches helping some of the poorest people in society. Many lives, including hundreds of young people, have been touched by Dr. Foster's work in his community. He is a good and generous man.

Dr. Foster's philosophy emphasizes delaying sexual activity, providing education and job training, and ensuring access to comprehensive health services. Not only has he been successful in reducing teen pregnancy, but he has also helped to instill the values of personal responsibility, belief in God, and self-esteem in many young people who live in absolute poverty and are most ''at risk.'' Many of those youth traveled to Washington this past winter to express their admiration and respect for Dr. Foster. All anyone had to do was listen to their personal stories to understand how Dr. Foster has made a profound impact on their lives.

Dr. Foster is one of the leading experts on, and advocates for, maternal and child health, and has developed and directed teen pregnancy and drug abuse prevention programs that bolster self-esteem, and encourage personal responsibility. He has had a distinguished career as a physician and community leader, and I believe he is a very qualified nominee who will make an outstanding Surgeon General.

Finally, I would implore my colleagues to at the very least bring this man's nomination to a vote. I know that many in my party are displeased by the way the administration failed to display all relevant information about this nomination. And, I know that many have strongly held views about abortion. But, do not make this man the victim of those controversies. There are other places to voice displeasure about these matters. A nominee, who comes before this body, seeking only to serve his country, deserves far better.

Dr. Foster has strong bipartisan support both inside the Senate as well as around the country. I look forward to seeing him make a positive contribution to the Nation's public health.

Mr. LEAHY. Mr. President, I support the nomination of Dr. Henry Foster to be the Surgeon General of the United States.

Over the past 4 months, Dr. Foster's entire career has been under great scrutiny. Opponents of his pro-choice stance have looked for every shred of information that could cast a shadow on the character and integrity of Dr. Foster. I believe that his opponents have failed in this effort.

I followed the nomination hearing with great interest. During the hearing, Dr. Foster conveyed a sincere vision of what he would do as Surgeon General. His top priority would be to continue his work on reducing teenage pregnancy. This is an important vision.

I am astounded by the personal attacks that have been made against Dr. Foster on the floor of the Senate today. I believe we should be focusing on the thousands of babies that Dr. Foster has delivered and the thousands of teenagers he has counseled. Instead, the focus has been on a medical procedure that is legal in all 50 States.

I believe Dr. Foster is a man of integrity who will excel as Surgeon General.

When President Bush nominated Clarence Thomas to the U.S. Supreme Court, I was the first member of the Senate to declare my opposition to his nomination. I did not believe that Clarence Thomas was qualified to serve on the Court. Even with strong reservations, I felt that Judge Thomas deserved an up-or-down vote.

I hope the opponents of Dr. Foster will let his nomination come to a vote. He deserves no less.

Mr. GORTON. Mr. President, on May 25, the Senate Labor and Human Resources Committee voted to approve President Clinton's nomination of Dr. Henry Foster as Surgeon General, over my opposition. I voted against Dr. Foster because he has shown extreme intolerance of those with whom he disagrees, and is therefore not the kind of Surgeon General who can or will exercise broad moral leadership. I intend to vote against his nomination here in the Senate if that nomination comes to a vote.

Dr. Foster's indulgence in name-calling—decrying those who disagreed with him as ''white, right-wing extremists''—came after his nomination, when he was already a public figure. His behavior shows his lack of capacity to build consensus. For the first 2 years of the Clinton administration, this Nation suffered a needlessly divisive Surgeon General. We do not need another for the remaining year and a half. The next surgeon general should heal wounds, not deepen them.

Despite my opposition to Dr. Foster's confirmation, however, I will vote for cloture. If a majority of the Senate is willing to confirm the nominee, then he should be confirmed. All sides have had ample time to air their views; no useful purpose is served by further delay.

But the most important reason not to filibuster Dr. Foster's nomination is that a filibuster will set a terribly damaging precedent. Had this tactic been used 4 years ago, Clarence Thomas would not be on the U.S. Supreme Court today. Dr. Foster deserves a straight up-or-down vote. Whether one agrees with him or not, he is entitled to the same consideration given almost every other nominee.

In 2 years, a Republican President will be submitting nominees for far more important offices. That President will appoint Cabinet members and Supreme Court Justices who undoubtedly will be opposed by Democrats and the national media. I do not want to make it easy for them to stall nominations of future conservatives by giving their opponents the moral precedent to use the filibuster as a means of defeating them. I also do not want to further cloud the nomination process by essentially ensuring that the only nominees who can gather the necessary 60 votes for confirmation are those with no track record, no history of making bold statements, and no strong views that make them attractive to large segments of our Nation.

Nominations to the Supreme Court are the most important a President can make, nominations that affect the future of the country long after the President who made them is gone. To put at risk future nominations to the Supreme Court just so we can hand President Clinton a setback today makes little sense.

I agree that Dr. Foster should not be put in a position where he will have a forum to speak about the important issues of the day. He has already proven that when he is given that opportunity, he will make comments that divide our Nation and lead to the kind of debate we see here on the Senate floor. Dr. Foster is not a builder; to the contrary, he uses political rhetoric to divide people, a tactic that makes for captivating headlines in the newspapers and provocative television stories, but does little to make our Nation stronger.

So let me be clear—no matter how strongly I feel that the nomination of Dr. Foster should be defeated, I am not willing to put the long-term future of our Nation at risk by allowing a precedent to be set that could lead to the filibuster of the next Republican nomination to the Supreme Court.

In short, my Republican colleagues should not now set a precedent they will soon come to regret. To prevent this vote from coming to the floor is to

thwart the democratic process and to tamper with appropriate executive privilege. I remain as opposed as ever to the confirmation of Dr. Foster, but I am unwilling to put the long-term future of our Nation at risk by allowing such a mischievous precedent to be set.

Mr. THOMAS. Mr. President, I rise today to express my opposition to the nomination of Dr. Henry Foster, Jr., as Surgeon General. The issue is not one of abortion. I believe the President of the United States has the authority to nominate whomever he pleases to represent his position. However, the position of Surgeon General is unique in that it requires pulling Americans together as this nation's doctor.

Unfortunately, Dr. Foster's credibility to represent the public health concerns of this country was severely damaged during the nomination process. I am deeply concerned about Dr. Foster's conflicting statements with the findings by the Senate Committee on Labor and Human Resources and with the White House. Our Nation's ''family doctor'' needs to be consistent and must speak with credibility so all will listen.

This time of exploration into the background of Dr. Foster has caused me to evaluate the role of the Office itself. It seems to me when this country is making priorities in the budget, it does not appear that the Office of Surgeon General is particularly integral to the overall mission the Federal Government faces. The Secretary of Health and Human Services has a budget of $726.5 billion. Surely, the Secretary can take over the role of the Surgeon General and save the taxpayers substantial money.

The Office was created back in 1870 in order to direct the Marine Hospital Service. The primary purpose was to provide health care services to sailors. It is clear to me that the Office has outlived its intended service.

Mr. President, many issues that Surgeon Generals in the past have trumpeted, like the risk of smoking and fetal alcohol syndrome, are crucial to health of our country. No one wants to silence that discussion. Those public health concerns can and should continue to be a priority, but as part of the role of our Secretary for the Department of Health and Human Services, or even in certain circumstances the President himself.

Mr. BAUCUS. Mr. President, I wish to express my support for the nomination of Dr. Henry Foster, Jr. to be Surgeon General of the United States. I do so because Dr. Foster fulfills the two conditions I consistently apply when deciding whether to support a particular nominee's confirmation: First, is this nominee ethical with a professional record of integrity; and second, does this nominee possess the proper professional qualifications and background for his or her particular position?

My conclusion is that Dr. Foster fulfills both criteria. He is first a man of high integrity and ethics; and second has demonstrated a lifetime record of professional accomplishment, commitment, and scholarship to the field of medicine, and in particular, gynecology and obstetrics.

Throughout the years I have applied these two criteria consistently and even-handedly, even when a nominee's own personal ideology has at times differed from my own. I do so again today.

Dr. Foster is a classic obstetrician-gynecologist of the highest order. He is not an abortion doctor. In fact, throughout his medical practice and career, Dr. Foster has promoted abstinence as the best way to prevent unwanted pregnancy. His practice has focused on delivering healthy babies and educating young people about proper family planning so that unwanted pregnancies and abortions can be avoided. Dr. Foster has demonstrated particular commitment and compassion to both rural and inner-city America and the unique health care-related problems these two areas face.

I respect the concerns of those who oppose Dr. Foster. Yet I also believe it is fair and appropriate to give this nominee the benefit of the doubt. Years ago, there was another Surgeon General nominee that attracted more than his fair share of criticism, although most of that criticism came from the left. That was, of course, Dr. C. Everett Koop.

Dr. Koop went on to prove his detractors wrong. He went on to serve the Reagan administration with great class and distinction. And I would urge Dr. Foster to look toward Dr. Koop as a role model. If he does that, I am convinced he will be a great Surgeon General.

In sum, over the last four decades Dr. Foster has proven to be a respected scholar, an accomplished researcher, a practicing physician, and an esteemed medical school dean. I believe that a person of Dr. Foster's professional background should be confirmed.

Mr. ROBB. Mr. President, I rise in support of the nomination of Dr. Henry W. Foster, Jr., to be Surgeon General of the United States.

While I recognize the concerns that have been expressed about this nomination, after reviewing his Senate Labor and Human Resources Committee confirmation hearings, I am confident that Dr. Foster answered all questions honestly and openly and is well qualified for the position of Surgeon General. Accordingly, I will vote for cloture and in support of his nomination if cloture is envoked.

Any examination of Dr. Foster's record, Mr. President, shows that Dr. Foster has dedicated his life to the health and well-being of others—a qualification uniquely suited to a Surgeon General nominee.

Dr. Foster has worked at Meharry Medical College in Nashville, TN, where he has received numerous honors for his work in obstetrics, treatment of sickle cell anemia, and teen pregnancy prevention. In 1988, in a Tennessee housing project, Dr. Foster began his I Have a Future project which encourages young people to practice abstinence and was named by former President George Bush as one of his Thousand Points of Light.

And Dr. Foster's record of service continues to this very day.

Mr. President, at the very least, Dr. Foster deserves a vote by this body on the merits of his nomination. We owe him that much. So I urge my colleagues to support today's vote to envoke cloture on the nomination of Dr. Henry Foster as Surgeon General of the United States.

With that I thank the chair and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Does the Senator from Indiana have any further speakers?

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. DASCHLE. Mr. President, I will use my leader time, since I know we are virtually out of time at this point. I will allocate whatever leader time may be required to make my statement.

Mr. President, several facts need to be emphasized before we take this vote. First, Dr. Foster may be one of the most qualified nominations ever to be made for Surgeon General of the United States. No one denies the fact that he has had an extraordinarily distinguished career—as a dedicated public servant, as an accomplished educator, as an exemplary community leader.

Dr. Foster has touched and positively influenced more people's lives than most can hope to in a lifetime. More than 10,000 children who owe their lives and health to Dr. Foster can attest to that.

Second, the fact is we need a Surgeon General now. We need a leader in health, just as we need a leader in economics, in law, or in foreign policy. Some would argue we need a Surgeon General even more than in these other areas.

Many of the most serious health problems plaguing our country are those money and health insurance cannot solve. They are problems of public health: smoking, teenage pregnancy, breast cancer, AIDS, and violence. Every 59 seconds, a baby is born to a teen mother. Every 30 seconds, a child in our Nation smokes for the first time. Every day, 2,000 Americans die of heart disease. This year, 46,000 women will die of breast cancer. These figures are all the more tragic because, in large measure, they are preventable.

But how do we prevent these problems without leadership? The answer is, we cannot. The two most powerful tools of prevention are public education and moral suasion, both functions of leadership. No one is better suited than the Surgeon General to use each of these tools.

The third fact, and it is a fact, is that a majority of Senators recognize both

the need for a Surgeon General and the qualifications of Dr. Foster. Democrats and Republicans supported Dr. Foster's nomination in committee. Democrats and Republicans support his nomination now. It is clear that a majority of this body supports this nomination today. They know how badly we need a Surgeon General. They know how important it is, how important these issues of public health are. They know how eminently qualified Dr. Foster is. They know what a skilled Surgeon General he will be.

But they also know there is a catch. The catch is there is a minority of Senators who, for the most unfortunate reasons, want to deny Dr. Foster even the opportunity for a vote. They know that Dr. Foster may be the first victim of Republican Presidential politics; that this vote may be hostage to a narrow constituency in the Republican Party who hold a different philosophical view than Dr. Foster. That is really what this is all about. It is about whether or not the far right has enough influence to stop a qualified public servant from serving his country. It is about whether some who seek the Republican Presidential nomination can make this the first vote of the Republican primaries.

Mr. President, this matter is too important to be trivialized by politics. This nomination, more than virtually any other, will affect the lives of millions of children and other Americans who need the leadership that Dr. Foster can give. It is a matter of fairness, not only to Dr. Foster, but to all those who now wait—who wait for solutions to breast cancer, who wait for help for teenage pregnancy, who wait for strategies in coping more ably with violence, with AIDS, with heart disease.

In the cause of fairness, in the cause of doing what is right, let us stand united as Democrats and Republicans in giving this man and our country what he and it deserves—a vote for cloture and a vote for the confirmation of the next Surgeon General for the United States.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

The Chair might inform the majority leader there are 11 minutes and 27 seconds remaining on the side opposing the nomination, and of course the leader has time.

Mr. DOLE. Thank you, Mr. President. I thank my colleagues on both sides of the aisle.

I think most everything has been said, but I just want to repeat a few things and sort of set the record straight about some other things. To begin with, maybe just a little history here might help some of my colleagues who may not have been here at that time.

From 1987 to 1992, I served as Senate minority leader under Presidents Reagan and Bush. There can be little doubt that during that time, the process of Senate confirmation became more contentious and more political than ever before. Some of the nominations that became political footballs are well known—Robert Bork, John Tower, and Clarence Thomas, to name a few. But most of us here have probably forgotten about the others. While we may have forgotten, I am certain their families have not forgotten and they probably have not forgotten, either.

This is not my information; it is information provided by the Congressional Research Service. During the 6 years Democrats controlled the Senate under Presidents Reagan and Bush, 11 nominees were reported out of the committee but did not receive a vote on the floor of the Senate. In other words, they came out here and that was the end of it. They did not get any vote; not on cloture, not anything. They just sat here and they went away at the end of the session.

Eighteen nominees were allowed a committee hearing but not a committee vote. Is that fairness? We had all this talk about fairness. Where is the fairness in that, when you have a hearing and no vote?

And a staggering 166 nominees were not even given the courtesy of a committee hearing.

Let us get everything straight out here. I have listened to all the crocodile tears this morning about this nomination, but I have not heard anybody go back and review what has happened in the past. These are facts. These are facts. These are not BOB DOLE's facts. These are facts.

I was just one of the many Senators, Democrat and Republican alike, who said during those years that if the Senate continued to turn confirmations into inquisitions, then good men and women would be no longer interested in serving in our Government.

When President Clinton took office, my philosophy remained the same: Absent unusual circumstances, a President's nominee should generally be confirmed. And Republicans cooperated to confirm President Clinton's Cabinet in record time. I think even the President said so when he called me.

In fact, during his 2½ years in the White House, President Clinton has submitted 248 names to the Senate for confirmation to civilian positions. Several have been controversial, but not one has been defeated in committee or here on the floor—not one. Not one.

My point is this: When we were in the minority, Republicans did not abuse the nomination process. And we will not abuse it now that we are in the majority. And we have not abused it with this nomination.

I assume, when people refer to Presidential politics, they may have me in that category. Everything around here is Presidential politics up here, but not downtown. Oh, it is all statesmanship in the White House. It would never occur to them to have any Presidential politics.

When this nomination was made, that was Presidential politics, to try to drive a wedge between Republicans on the issue of abortion. That is what it is all about. President Clinton made a calculated political move—politics. Politics, not qualification.

Nobody, including Dr. Foster, can question the fairness of the hearings chaired by Senator KASSEBAUM who, if cloture is invoked, will vote against Dr. Foster. At no time did the hearings become a media circus. We went through media circuses this year, and when the Democrats had control, we had nominees who were being pilloried day by day and ridiculed by the media, by the liberal media.

Dr. Foster was asked tough questions. He gave his answers and the committee voted him out 9 to 7.

I heard on the morning news that this has been delayed and delayed. I am going to give the facts again, as I did when this debate started.

This nomination was put on the calendar the 26th of May, the day we went out for the Memorial Day recess. We came back on the 5th of June. As I calculate, today is the 21st. I said that I wanted to meet with Dr. Foster. He could not meet the first weekend because he had commitments. I do not fault him for that. I could not meet the next weekend. We met on Monday. Today, we have the debate on the floor—on Wednesday.

So I want to set the record straight for those who are saying somehow this has all been held up. It has not been held up at all on the Senate floor. In fact, I think it is a very expeditious handling of the nomination.

Yes, supporters of the nominee must obtain 60 votes. That is the way it works. I have had the Congressional Research Service do a little work in that area. I have heard people say, ''Oh, this never happened before.'' It has happened a lot. I voted. Let me just give you a little information here. Sometimes facts may not be important, but they are nice to have in the record.

Cloture was first sought on a nomination in 1968, when a motion to proceed to the consideration of the Abe Fortas nomination—Chief Justice of the Supreme Court—was defeated 45 to 43. When cloture was not invoked, President Johnson withdrew the nomination. Since 1968, 24 nominations have been subjected to cloture votes.

So there have been plenty of precedents for cloture proceedings on nominations.

In 1980, as the Senator from Massachusetts will recall, the nomination of Stephen Breyer to the Circuit Court of Appeals was subject to a cloture vote because of Republican concerns. Cloture was invoked, and the nomination was confirmed. I voted aye on cloture, and I voted aye on the nomination.

In 1986, a very, very important nomination, the nomination of William Rehnquist to be Chief Justice of the

Supreme Court was subjected to a cloture vote—the Chief Justice of the Supreme Court subjected to a cloture vote; not some small office with a staff of seven, with no policy, nothing but a public relations office. I voted yes on the cloture motion. I voted yes on final passage.

Prior to the 103d Congress, the following nonjudicial nominations have been subjected to the cloture procedure: William Lubbers, nominated to be general counsel of the National Labor Relations Board, 1980; Don Zimmerman, nominated to be a member of the National Labor Relations Board, 1980; Melissa Wells, nominated to the rank of Ambassador, 1987; and William Verity, nominated to be Secretary of Commerce, 1987. On each of these nominations, cloture was invoked and the nominations were confirmed. And that is only part of the story.

I remember meeting a few years ago with a fellow named Bill Lucas, an outstanding black American who was sheriff in Wayne County, MI; an outstanding man, a Republican. The Black Caucus did not show up for that event. But he was an outstanding American. The vote in the committee was 7 to 7, a tie. That was the end of it. We never had a vote. We never had anything on the Senate floor because the Judiciary Committee said, ''No; we are not even going to report it out, not even unfavorably.'' That is fairness? I do not think so. It was not fairness for Bill Lucas. It was not fairness to his family. He did not have any hearing on the Senate floor.

So I just suggest that we are all talking about all this being fair. I have a memory for fairness. I have been here a while, and I have tried to be fair. I had a number of options—not bring it up at all. But I did not believe that was appropriate. I thought about it. It was an option. But that would have been one person making a decision for 100 Senators, and I did not do it although it has been done in the past by majority leaders on the other side when they had a majority, not to bring it up at all. But I chose not to do that. I do not believe we give up our rights when we bring it up. We are not giving up our rights. And I can understand where people would have different views.

I would say, as I have said, I had a good visit with Dr. Foster. I think he is a very nice person. We are not voting on that. There were contradictions in his statements. I asked him 20 to 25 questions, and I tried to make a record so I would understand, myself, on much of the debate. I read the information which Senator COATS sent to each of us, which was very helpful.

I was troubled by the Tuskegee information. I was troubled by sterilization of some mentally retarded women. I was troubled by a lot of these things that Dr. Foster had no recollection of. I could not understand it. But again, let some say, ''OK, maybe you can dismiss that.'' So I just suggest that there may be a lot of things—I am proud of the fact that Dr. Foster is a veteran. He served his country. I am proud of that. He is proud of that.

I just want to suggest that a cloture vote on a nomination is nothing new here in the Senate. As I said, there are 24 nominations that have been subjected to cloture votes since 1968. And one of those votes occurred on the nomination of William Rehnquist to be Chief Justice of the United States, the head of the third branch of our Government, and we had to have a cloture vote.

So it seems to me that we understand the options. I told Dr. Foster we would not let him hang there in limbo. He told me his sabbatical ends the first of the month. He has been on a year of sabbatical, and he would like to have some determination. I think he is entitled to it. That is why we are here today.

So I must say, we said let us do it. The Democrats said, ''Oh, we would like to wait a week''—so they can work over Republican Senators and try to get the liberal media to follow the steps that they normally do and spread their spin across America.

So I say again, about Presidential politics, certainly everything is not Presidential politics here. If I wanted to have one-upmanship, I would not have brought the nomination up. Maybe others have ideas about Presidential politics. But again, let me suggest that certainly it was not overlooked at the White House.

I think another major point is candor. I think even Dr. Foster's supporters have to say on a number of occasions, this nominee's candor has come into question. All of these were not Dr. Foster's fault. This particular nomination was flawed from the outset because of the way it was handled at the White House, the way they did not bring out all of the information right up front. I know that was not Dr. Foster's fault.

In his committee hearing, in his public statements, and in his meeting with me, Dr. Foster had an explanation for every misstatement concerning the number of abortions he performed and for every controversial action, including his alleged knowledge of the infamous Tuskegee syphilis study and his role in sterilizing several mentally retarded women during the early 1970's. Some explanations made sense, and some did not. Some questions were answered and some were not.

And somewhere along the line, I think a line was crossed where no matter how Dr. Foster tries, there will always be questions in the minds of many Americans about this nominee's candor and credibility.

This is not just the opinion, as has been noted here—I have watched every debate on C–SPAN—it is not just the opinion of a few conservative Senators. It is also the opinion from an editorial in today's New York Times.

But it seems to me, Mr. President, that we have President Clinton demanding we return to civility in our politics. He said the Americans want Republicans and Democrats to work together for the betterment of our country.

If that is true—and I think it is—then this nomination certainly does not further those goals. Without consulting with Senator KASSEBAUM, my colleague, or any other Senator, President Clinton selected a nominee who was all but guaranteed to cause a political controversy, a nominee who was all but guaranteed to divide the Senate, and all America, as well. And that is just what this nomination has done.

Sadly, this divisive nomination was made in the wake of the forced resignation of a Surgeon General whose tenure led many to believe that the time had come to abolish the office before it became even more politicized than it was.

So again, I will conclude by saying that while I admire Dr. Foster's military service and his obvious passion for his work—and he has done a lot of good work—that somewhere out there among America's hundreds of thousands of physicians, there is a man or a woman whose past actions and statements would not divide the American people and this Chamber. They can be pro-choice. They could be pro-life. They could be whatever. There are thousands and thousands of qualified people out there. The Surgeon General should be ''America's doctor''—America's doctor.

I have listened to these statements, one just by the Democratic leader, about cancer, heart disease, the Surgeon General is going to take care of all these things. If we just confirm Dr. Foster, all these things are going to go away. We know that is not the case.

They should not be the Democrat's doctor or the Republican's doctor. They should not be the liberal's doctor or the conservative's doctor. Ideally, their qualifications and experience should be so apparent that they would be confirmed by an overwhelming vote. And this is most assuredly not the case here. The bottom line is, will Dr. Foster unite the American people? Will his public pronouncements and speeches be regarded as medical and scientific fact rather than political rhetoric? Would he be regarded as America's doctor? That is the question we need to answer.

As I said, he may be a fine person, but in my view he is the wrong person for this job.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 174, the nomination of Dr. Henry W. Foster, to be Surgeon General of the United States.

Senators Christopher Dodd, Carl Levin, Dianne Feinstein, James Exon, Harry Reid, Daniel K. Akaka, Claiborne Pell, Richard Bryan, Patty Murray, Bob Graham, Max Baucus, Frank R. Lautenberg, Russell D. Feingold, Barbara Mikulski, Barbara Boxer, Edward Kennedy, and Tom Daschle.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the nomination of Dr. Henry W. Foster, Jr., of Tennessee, to be Surgeon General, shall be brought to a close. The yeas and nays are required. The clerk will now call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 57, nays 43, as follows:

[Rollcall Vote No. 273 Ex.]

YEAS—57

Akaka	Feinstein	Levin
Baucus	Ford	Lieberman
Biden	Frist	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Gorton	Moynihan
Bradley	Graham	Murray
Breaux	Harkin	Nunn
Bryan	Heflin	Packwood
Bumpers	Hollings	Pell
Byrd	Inouye	Pryor
Campbell	Jeffords	Reid
Chafee	Johnston	Robb
Cohen	Kassebaum	Rockefeller
Conrad	Kennedy	Sarbanes
Daschle	Kerrey	Simon
Dodd	Kerry	Simpson
Dorgan	Kohl	Snowe
Exon	Lautenberg	Specter
Feingold	Leahy	Wellstone

NAYS—43

Abraham	Gramm	McConnell
Ashcroft	Grams	Murkowski
Bennett	Grassley	Nickles
Bond	Gregg	Pressler
Brown	Hatch	Roth
Burns	Hatfield	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Smith
Coverdell	Inhofe	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Dole	Lugar	Warner
Domenici	Mack	
Faircloth	McCain	

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 43. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 440, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

The Senate resumed consideration of the bill.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CHAFEE. Mr. President, under the previous order, the next amendment is that of the Senator from Maine, Senator SNOWE, as I understand it; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. CHAFEE. I understand she is willing to let the Senator from Missouri make a statement for up to 5 minutes.

The PRESIDING OFFICER. That is the Chair's understanding. The Senator from Missouri.

Mr. BOND. Mr. President, I thank my distinguished chairman and the Senator from Maine.

Mr. President, it was a real pleasure for me on February 16 of this year to join the distinguished chairman of this committee, the ranking member, Senator BAUCUS, and chairman of the subcommittee, Senator WARNER, with whom I joined in introducing S. 440, the National Highway System Designation Act of 1995.

Since its introduction, the Subcommittee on Transportation and Infrastructure, of which I am a member, conducted four hearings, had a full committee markup and moved this bill to the point where we are now. This is a priority measure. I am very grateful for the bipartisan leadership and support that this measure has obtained.

The concept of the NHS was authorized in the big Federal highway bill, ISTEA, to solicit State and local input in designing a national transportation system which would move people and goods efficiently and safely across the country.

This is something I have worked for throughout my career in State and Federal government, and it has always been important to those of us in my State of Missouri, that we who are at the crossroads of the Nation be included in a modern national network that would provide Missouri the same kind of full access to the markets that the coasts currently have, and it would provide our friends and neighbors from other States the opportunity for efficient transportation through the heartland of the Nation.

NHS was developed from the bottom up. In our State, the highway and transportation department coordinated with metropolitan planning organizations, regional planning agencies, highway groups and local officials to determine the highway priorities.

Missouri then acted promptly in submitting the approved plan to the Federal Department of Transportation for incorporation into the overall system. This, to me, Mr. President, is a great example of the cooperation between Federal, State, local governments, and private sector organizations, and we should encourage this kind of cooperation in the future.

In its entirety, as the Members well know, NHS will be a 159,000-mile network of interstate highways, major arterials and key corridors across the United States. These highways will carry more than 75 percent of all commercial traffic, although they comprise only 4 percent of the Nation's highway mileage. For our State of Missouri, Mr. President, this means 3,490 rural and 973 urban miles of highways that are the most economically important roads in the State, carrying 46 percent of all motor vehicle traffic.

The NHS will be the backbone of our transportation infrastructure network. They will carry over 40 percent of the Nation's highway traffic, 75 percent of heavy truck traffic, and 80 percent of our tourist traffic, which is vitally important to us. These highways are critical for both State and interregional commerce. These highways are the economic lifeline, especially for States like mine.

I know that in striving to reach a balanced budget by 2002, we have to make tough choices and recognize that the Government cannot do it all. But by developing and passing the NHS, we are establishing priorities, priorities on our highway and transportation needs, in order to ensure that we invest our limited funds wisely. We recognize the role that the transportation infrastructure has with the state of our economy. It is imperative that these critical things receive priority attention.

We must realize the importance of this legislation being passed and signed into law by September 30 of this year. Without passage, States will not receive their apportionments of $6.5 billion. There is $156 million for our State of Missouri. We cannot delay or hinder the passage of this bill which means so much to our constituents. I join my colleagues in urging prompt adoption of this measure here. I also urge our colleagues in the House to act on this legislation before it is too late. This is of vital national concern.

Mr. President, I thank the Chair, and I particularly thank the distinguished Senator from Maine for yielding time to me.

AMENDMENT NO. 1442

(Purpose: To eliminate the penalties for noncompliance by States with a program requiring the use of motorcycle helmets)

Ms. SNOWE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will report.

The bill clerk read as follows:

The Senator from Maine [Ms. SNOWE], for herself, Mr. CAMPBELL, Ms. MOSELEY-BRAUN, Mr. SMITH, Mr. FEINGOLD, Mr. KOHL, and Mr. KEMPTHORNE, proposes an amendment numbered 1442.

Ms. SNOWE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. . ELIMINATION OF PENALTIES FOR NONCOMPLIANCE WITH MOTORCYCLE HELMET USE REQUIREMENT.

Section 153(h) of title 23, United States Code, is amended by striking ''a law described in subsection (a)(1) and'' each place it appears.

Ms. SNOWE. Mr. President, I am now offering an amendment today, along with my colleague, Senator CAMPBELL from Colorado, as well as my colleagues, Senators MOSELEY-BRAUN, SMITH, FEINGOLD, KOHL, and KEMPTHORNE. Essentially, what our amendment would do is to repeal the penalty that would be imposed on those 25 States that have yet to pass a mandatory helmet law.

Yesterday, Senator SMITH from New Hampshire offered an amendment that included both seatbelt and helmet laws. That amendment failed. So I am now offering today an amendment that would help 25 States—half of our country—who have yet to pass a mandatory helmet law.

We had considerable debate yesterday as to whether or not it is appropriate for the Federal Government to intrude upon decisions that rightfully belong to the States. We began this Congress with a pledge to reduce the size and the scope of the Federal Government and to restore the ability of States to resolve their own problems with their own solutions and with their own people.

I think we need to hold firm to that commitment. It is not a one-time deal or a part-time arrangement that we have for the people of this country to meet a commitment that they demanded in the last election. Reducing the size, scope, and intrusion of the Federal Government is a central part of our legislative agenda in this Congress. That is why I am introducing this amendment here today. It is one that I have worked on and Senator CAMPBELL has worked on over the years. We happen to think that it is inappropriate for the Federal Government to impose on the States a mandate and a requirement that they have to enact specific laws, otherwise, in this instance, they lose a percentage of their transportation funds.

As we know it, ISTEA was passed in 1991, and penalties took effect a year later, and States could enact both a mandatory seatbelt and helmet law. There are two States that have yet to enact seatbelt laws—Maine and New Hampshire. There are 25 States that have yet to enact mandatory helmet laws. And these penalties take effect in October of 1995, whereby 1.5 percent of the transportation funds from that particular State will be diverted to safety education programs. In 1996, it will be 3 percent of the transportation funds that will be diverted to safety education programs. All told, that represents, in the year 1995, a loss, as exemplified by this chart, of $48 million to those 25 States in badly needed highway improvement funds or bridge repair.

In 1996, the penalty is doubled to $97 million for those 25 States. They will lose precious transportation funds—funds that already had been appropriated to the States, which I think is very unprecedented, and will be used for safety education programs.

If you look at the State of Illinois, it would lose $12,480,000 in the year 1996. Ohio will lose, in 1996, $9,280,000. That is a substantial amount of money to be lost for any State when it comes to highway repair. Certainly, it is true for my State of Maine, which has more than 22,000 road miles in the State. We need every dollar we can use for highway repair.

Now, under this penalty, the State of Maine will be required to double the amount of money for safety education programs, to more than $1 million, as a result of this penalty. It will be money that cannot be used for highway road repair if they do not pass a mandatory helmet law. I think that, frankly, is the wrong approach to take. It is, again, Federal Government micromanaging State policy. It is demonstrating the arrogance of the Federal Government. It certainly represents an excessive reach of the Federal Government and, again, the coercive means that the Federal Government is willing to use to force States to be brought into line with what the U.S. Congress considers to be politically correct.

The penalties that will be levied are going to be substantial, as I mentioned before. But more important is the fact that the States already recognize the importance of safety education programs. In fact, 44 States already have in place rider education programs for motorcycle riders. It was not because the Federal Government bullied the State into establishing those programs. No. It was something that the States recognized on their own as essential to improving motorcycle riding safety. And that is why I believe that fatalities and accidents have been substantially reduced over the last decade—far ahead of the time before these penalties even took effect under ISTEA when it was passed in 1991.

Those 44 programs represent $13 million to the States, and they raised that funding by imposing fees on motorcycle registration and licenses. In my State of Maine, we have a $500,000 program. It has proven to be valuable, essential, and effective in reducing fatalities of motorcyclists. In fact, in Maine in 1993, we ranked the second lowest in the country for motorcycle fatalities. I think it does prove that those programs become very effective toward reducing accidents on the road and certainly fatalities.

That is why I think the States should be allowed to determine their own policies with respect to safety on the highways and certainly with respect to motorcycles.

Since 1983, the number of accidents have decreased from 307 per 10,000 registered motorcyclists to 206 in 1992. Fatalities similarly declined from 8 per 10,000 registered motorcyclists in 1983 to 6 per 10,000 in 1992. This shows, in my opinion, a remarkable decline. And this all occurred, as I said, prior to the enactment of section 153 that went into effect, I think demonstrating clearly that the heavy-handed treatment by the Federal Government is not essential to improving motorcycle safety. The States are certainly better able, better prepared, and better equipped to address those issues.

I was somewhat disturbed yesterday by the tenor of the debate. I think there is some feeling that somehow the Governors and State legislatures are somewhat less concerned or disinterested or unresponsive to what is happening on their own highways and roads.

I do not think there is anything that could be further from the truth. The fact is, motor vehicle laws have always been within the purview of State government. It has been traditionally their jurisdiction. I think there is nothing wrong with the Federal Government creating incentives for establishing certain programs or passing certain laws.

We should not be imposing heavy-handed penalties to force the States to do something that they do not deem appropriate or in their interests. That is for themselves to determine in making and creating State policy.

In response to the chairman's comments yesterday, the chairman was saying in any of the competitions for motorcycle riders, they are required to wear helmets. I think we can say very safely that many feel that people should wear helmets. But that should not be a decision made by the Federal Government.

The question of who decides who should wear helmets should be appropriately placed with the States. For personal safety, I certainly would recommend, and I have worn a helmet when I have ridden a motorcycle, because I think it is important.

The chairman made the comment yesterday that there is a requirement at these competitions that riders wear helmets. Mr. Dingman sent a letter to the chairman. I quote from it:

As part of your justification for keeping in place the section 153 penalties on States that do not have mandatory helmet laws for all riders, you stated that the AMA requires all riders to wear helmets in the competitive events we sanction. I would like to point out that although regarding the American Motorcycle Association races, sanctioning policies are established by riders committee through a democratic process.

In seeking to repeal the section 153 penalties, we simply want to give the States the same ability to make a decision regarding helmet laws through a democratic process without coercion from the Federal Government.

I think that is the bottom line here. What we are attempting to achieve through this amendment is to allow the decision to be made by the State legislatures and the people in those States. That is what we should be doing. That is the kind of approach, I think, that should be taken at the Federal level, to leave those decisions that are best made by the State governments to the States.

Finally, I would also like to quote a letter by the Governor of the State of Wisconsin, Governor Thompson.

Mr. President, he writes:

Wisconsin cycling community, in their legislatures, has said our State does not want or need a law requiring all motorcyclists to wear helmets. The most recent efforts to enact such a law was unsuccessful in the 1994 legislative session. Instead, Wisconsin relies on a partnership approach marked by responsible riding and effective training and safety programs. This approach is working well. During the past 12 years, without a mandatory helmet law, Wisconsin has continued to pose one of the Nation's best motorcycle safety records. Still, Federal laws require States to pass mandatory helmet laws covering all motorcyclists by October 1, 1995, or face strict penalties. If Wisconsin does not pass a mandatory motorcycle helmet law by this Federal deadline, more than $7 million in Federal funds will be taken away from highway projects and transferred to motorcycle safety programs of the next 2 years.

Instead of leading the charge for a mandatory helmet law in Wisconsin, I am leading the fight in Washington against burdensome Federal mandates. Wisconsin must have the freedom to choose what works best for our State without facing costly, one-size-fits-all Federal laws that tie our hands. I hope you support this effort by contacting your U.S. Senator or Representative, urging them to help repeal the helmet law mandate. The decision on whether to require helmet use must be made by individual States, not by the Federal Government.

I think that is well said.

Again, I want to underscore another point, as mentioned by Governor Thompson. The fact is, Wisconsin has a very effective rider safety education program and has one of the best safety records in the country. Yet they do not mandate the use of helmets. They are not going to change their law in the State of Wisconsin regardless of what the Federal Government does with respect to the penalty imposed on them through the use of transportation funds.

The point is, even prior to the imposition of penalties, 24 States out of the 25 said that they had not passed mandatory helmet laws. Only one State, since ISTEA passed in 1991, the State of Maryland, passed a law. That was before the penalty was in place. That was so they could qualify for an incentive grant program for additional funding.

The point is that over half of the States, or half the States, in this country have not adopted the helmet law because they think it is a decision that should not be forced upon them by the Federal Government. I certainly could not agree more.

I hope my colleagues will support my amendment to repeal this intrusive measure so the States can make their own decisions and their own policies. I yield the floor.

Mr. CAMPBELL. Thank you, Mr. President.

They say here on some bills that everything that can be said about an issue has been said, but not every Senator has said it. Yesterday we were in debate well over 2 hours on the Smith amendment. I would like to point out there was a very clear difference. We had some people yesterday who said that if the amendment did not deal with seatbelts, they thought they could support it.

I would like my colleagues to know that the Snowe amendment does only deal with helmets and, in fact, does not repeal anything. It simply stops the blackmailing by the Federal Government of States to pass mandatory helmet laws.

In my opinion, the 25 States out of compliance are not going to change. A number of States have repeatedly voted down mandatory helmet laws, as has our State of Colorado. I think they will continue to do so.

If a Senator is from a State that is out of compliance, I think the Senator will be asked by constituents, when they go home, why did that Senator vote to continue penalizing a State if that Senator did not support the Snowe amendment? Why did Senators take the right away from citizens in their own State to make that choice?

Those States include Alaska, they will be penalized over $2 million, $2.7 million; Arizona will be penalized over $2 million; my State of Colorado will be penalized $1.9 million; Connecticut will be penalized $2.3 million; Delaware, $735,000.

I will read all of them so those Senators who may not know if their State is out of compliance or not, will know at the end of this.

Hawaii will be penalized $1.334 million; Illinois, $6.12 million; Indiana, $2.934 million; Kansas, $1.6 million; Maine, $853,000; Minnesota, $2.192 million; Montana, $1.6 million; New Hampshire, $800,000; New Mexico, $1.9 million; North Dakota, over $1.1 million; Ohio, over $4.6 million; Oklahoma, $1.9 million; Rhode Island, $700,000; South Carolina, over $1.734 million; South Dakota, $1.1 million; Utah, $1.69 million; Wisconsin, the State from which we just had the letter introduced in the RECORD, Governor Thompson's State, penalized $2.4 million, yet they have repeatedly voted down mandatory helmet laws; and Wyoming, your State, Mr. President, will be penalized over $1 million if the Snowe amendment does not pass.

My State of Colorado has no helmet law. We had one until 1977. Have not had it since then. The Colorado State Legislature has repeatedly refused any attempt to implement one. The last time it was up, it lost in committee by 6 to 1.

We do not need the U.S. Senate or any Federal agency second-guessing our legislature on that issue. Yet that is exactly what we are doing in Colorado and the other 24 State legislatures if this amendment is not adopted. I do not think there is any question that helmet laws do not prevent accidents, nor do they make safer drivers. For the 14-year period between 1977 and 1990, States with mandatory helmet laws had 12.5 percent more accidents and 2.3 percent more fatalities than did States that did not have mandatory helmet usage.

In the past decade, motorcycle fatalities have decreased 38 percent and accidents have plummeted 41 percent. I think those figures are particularly impressive because the Federal Highway Administration estimates that the average vehicle miles traveled by motorcyclists has increased 85 percent since 1975. These statistics are unmatched in any other category of road user, passenger, or commercial.

The opponents of the Snowe amendment will tell you the reason those numbers of deaths and injuries have gone down is because of mandatory helmet laws. We disagree. We believe in most cases they have gone down because we have better trained riders, that through rider education training throughout America we simply are getting more people who are riding that understand the dangers and are better riders.

What can account for the decrease in accident fatalities? Evidence clearly indicates that the most effective way to reduce motorcycle accidents is through comprehensive education programs. Many of us think, in fact, it should be established in the schools just as driver education is for automobiles.

Currently, 42 States have established and funded some sort of safety programs. They have done that without the Federal Government mandating that they do so. The national average of motorcycle fatalities per 100 accidents is 2.95 per 100. States with rider education programs and no helmet laws, however, have the lowest death rate, 2.56 fatalities per 100 accidents. States with mandatory helmet laws and no rider training have a significantly higher rate of 3.09 fatalities per 100 accidents.

We are talking on the floor almost every day about Federal mandates. I do not remember the exact vote, but some

months ago we overwhelmingly passed the unfunded mandates bill on the floor of the U.S. Senate in which we basically said we heard from our constituents across America who said, ''Get the Government somewhat out of our business and curtail some of the mandates you are making in the U.S. Congress that forces States to do things against their will.'' Many believe in part that message in the last election was almost all about getting Government reduced in size and out of our personal decisions.

I happened to see a license plate the other day from the State of my friend, Senator SMITH of New Hampshire, that I thought was rather interesting. It was a license plate made by the State of New Hampshire. On the license plate it says, ''Live Free Or Die.'' That may sound a little arcane in this day and age, but the fact of the matter is many Americans still believe they have enough Government imposed on them and they should be able to make more decisions in their own private lives.

While it can be argued that mandating these things would be good for America's citizens—and I am sure some of the opponents of the Snowe amendment may so argue—is it right to have the Federal Government intrude in our lives to the extent they tell us how to dress for recreational pursuits? I think that is absolutely wrong, and I strongly urge my colleagues to support the Snowe amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I am pleased to join my distinguished colleagues in support of this amendment to repeal the law that levies financial penalties on States that have not enacted mandatory helmet laws.

Mr. President, when you say the words ''right to privacy'' these days, most Americans think of reproductive freedom and more specifically of a woman's right to choose. Although reproductive freedom is certainly an important part of the individual liberty protected by our constitutional right to privacy, the right to privacy really does encompass much more.

One of the best definitions of its scope and its importance came in a 1928 dissent by Justice Louis Brandeis in the case of Olmstead versus United States. In that opinion, Justice Brandeis stated:

> The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness . . . they sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. They conferred, as against the Government, the right to be let alone, the most comprehensive of rights and the right most valued by civilized men.

The authors of the Constitution knew all too well the danger posed by a Government that did not respect individual privacy. For that reason, privacy is protected explicitly by the 4th, 9th, 10th and 14th amendments to our Constitution and, indeed, by the very foundation and structure of that document.

When it comes to supporting our constitutional right to privacy, I am as determined as they come. In fact, everything I do here in the U.S. Senate is dedicated to protecting and promoting the rights and liberties of all Americans. That is why I have cosponsored this legislation during both the 103d and 104th Congress, legislation that would strike the provision in the Intermodal Surface Transportation Act which infringes on our right to privacy by forcing citizens to wear motorcycle helmets. More specifically, this provision forces States to enact mandatory motorcycle helmet laws by transferring highway construction funds to highway safety programs in States that failed to enact such laws.

Since Illinois is one of only three States without a mandatory motorcycle helmet law, the U.S. Department of Transportation has already transferred more than $6 million from our highway construction program to the highway safety program in fiscal year 1995. It is expected to transfer more than $12 million out of this very important program, the construction program, in fiscal year 1996.

Although I do not own a motorcycle, I ride one every chance I get, and sometimes without a helmet. Like many Americans all across the country, I love the feeling, the sensation, the enjoyment that I get from that experience.

Just a few months ago, I joined 3,000 members of ABATE of Illinois on a freedom ride from the Illinois Department of Transportation to the Illinois State Capitol to remind members of our State legislature that our democracy is only as strong as the rights and the liberties of its citizens. So the question of individual freedom and privacy is paramount in my analysis of this issue.

This issue is not about whether or not people should wear a motorcycle helmet. I, frankly, encourage everyone to do so. In fact, there is the old motorcyclist's shorthand phrase, ''Those who do not wear helmets do not have brains to protect.'' The fact is, you should wear a helmet when you are riding.

The question, however, here, is whether or not the Government should be making that decision for me or for any other American. To that question my response is a resounding ''no.'' The fact of the matter is, there is insufficient data to suggest that, by forcing States to give up money by forcing States to transfer highway dollars in behalf of dictating what motorcyclists should wear, that there is any real public policy served by that. If the Federal Government wants to increase motorcycle helmet use, it should invest more in highway safety education programs like the very successful motorcycle training program in Illinois instead of forcing States to enact mandatory helmet laws. Those programs give individuals the information they need to make informed decisions regarding safety, training regarding the proper use of motorcycles, and how one should properly operate that machine.

The fact of the matter is, however, this is a mandate that goes too far. This is an infringement on individual choice. This is an infringement on the right to privacy. I believe this amendment should, therefore, be supported by everyone who cares about our capacity as Americans to make decisions, personal decisions, regarding personal safety.

I encourage my colleagues to support the Snowe–Campbell–Moseley-Braun–Feingold–Kohl amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I feel very strongly this is a bad amendment. I regret it has been brought up. Yesterday, we debated the seatbelt bill containing this provision in it. It was defeated. The seatbelt part was dropped. And now we are strictly debating motorcycle helmets and whether the Federal Government has the right, as it is currently doing, to provide an incentive, if you would, for the States to enact a helmet law or, if they fail to do so, they will be deprived—some of their funds will be directed into highway safety rather than into road construction.

I would just like to set the record straight here, if I might, because various suggestions have been made.

First of all, the Federal Government is already deeply into highway safety. The Federal Government, through the National Highway Traffic Safety Administration, sets all kinds of standards on motor vehicles. No one is suggesting we ought to be able to have an absence of safety glass in our automobiles, of course not. That is set, standards are set by the so-called NHTSA, the National Highway Traffic Safety Administration.

They set standards for brakes and bumpers, safety belts, airbags, all of those things are by the Federal Government. Why? Because the Federal Government cares about the safety of our people. And, furthermore, let us never forget the cost to the Federal Government if people are injured. This particularly goes to those who are riding motorcycles without helmets who suffer severe head injuries that could have been prevented.

Do we only get into the vehicle itself when I am talking about safety glass and seatbelts and airbags and so forth? Or do we get into the rider or the driver? Of course, we get into that in the minimum drinking age. We now have a provision in the law that says every State has to enact a minimum drinking age of 21 or else they will lose some funds. As a result, every State has enacted that, and there is nobody who gets up on the floor and says that is the wrong way for the Federal Government to go, we should not be doing

this, that this is big, bad Federal Government, it is coercion. It is a fine measure.

Yesterday, we kept the provision in there dealing with seatbelts. Indeed, we kept the provision dealing with helmets. But the seatbelt one has been dropped, as I mentioned. There is a suggestion that we should not be doing this. What is the Federal Government doing in this through the Senate and the House of the United States? Leave it to the democratic process. Well, I do not understand that. Is there a suggestion that State legislators are democratic and the Congress of the United States is not? I do not follow the argument that it is perfectly all right for a State to do it, but somehow it is wicked for the Federal Government to do it.

But the principal point I want to get back to is the Federal Government, the Federal taxpayers, pay the bills when these horrible injuries occur. And there is not anybody here who has spoken to a physician or a nurse who has worked in an emergency room who will not tell you, that individual will give horror story after horror story of what has happened to individuals they see in the emergency room who suffer terrible injuries in a vehicle when they did not have their safety belt on, or were riding a motorcycle when the individual did not have a helmet on.

One of the arguments given here is the answer is not to mandate this through the coercion of losing funds if you do not pass it. But it is to have rider education. No one argues against that. Sure, rider education is great. No one objects to that. All the better. But it is not one or the other. I have difficulty following the argument that, if you have rider education, you do not need helmets.

We do not say that if you have driver education, as is required in the schools in my State, and I presume in many of the States, or safety efforts that are made on the highways. I remember we used to talk about the three E's: education, enforcement, and engineering. All of those apply: education in the driver training; enforcement, with the police making sure there is not excessive speeding; and engineering in the design of our highways. But it is not those and not something else. Sure, in addition to all of this, we have seatbelts for those in automobiles. And we ought to have motorcycle helmets for those who are riding motorcycles, and the passengers likewise.

The argument somehow is made it does not do any good. I do not think anybody is serious about that. Nobody knows better than these riders that the helmet is a preventive measure. It is a safety measure.

I listened carefully while the Senator from Maine read the letter from the head of the motorcycle association. And yesterday I said that the motorcycle association in its sanctioned meets requires a helmet to be worn. The letter that was read, as I understood it—and I stand to be corrected—did not refute what I said. It said that is arrived at in a democratic process. But that does not get around the point.

The point I was making is that those who are fighting this so vigorously, their own activities require it. It is not up to the choice for each motorcyclist to do what he wants, freedom of expression, the chance to have the wind blowing through his or her hair. It is required, and it may be through a democratic process. But it could well be that there are 51 votes for it and 49 votes against it. But it is required. And if the Senator from Maine finds I am wrong in the way I interpreted what she said, I would be pleased to learn that because my understanding is—we have checked this before—that in the sanctioned meets by the motorcycle association, helmets are required. It makes no difference that it is arrived at in a democratic process. This is a democratic process. We are voting here on the floor.

There is another suggestion that seems to be made here that this is a wicked thing we are doing, or have been doing, because after all, this law has been on the books for nearly 4 years because it costs the States money. It does not cost the States money. We do not take money from the States, from the amounts that they are allocated under the highway legislation. They get the same amount of money.

The only thing is that in 1991, we said in the so-called ISTEA legislation, the Surface Transportation Efficiency Act of 1991, that if you do not pass a law mandating the use of helmets and seatbelts, then a certain proportion of that money, an increased proportion, must be devoted to safety measures, to education and safety training. That has been done in many States. Over 22-odd States that do not have this legislation have to put that money into education. That is their choice. They made that choice. If they want the highway money, they can pass the legislation.

They say that is coercion. Well, I do not think it is. It seems to me that if you are paying the bill, as the Federal Government is doing through Medicaid, over 50 percent in every instance, taking care of these people who are so severely damaged as a result of the absence of a helmet, we have a right to levy some requirements.

Do helmets save lives? I do not think anybody questions that. That is not to say that education does not, or driver training and experience does not save lives. But so do motorcycle helmets.

Over the past 10 years, motorcycle helmets have saved over 6,400 lives and prevented over 25,000 serious injuries. If every motorcyclist wore a helmet, nearly 800 lives would be saved every year. Unhelmeted motorcyclists involved in collisions are three times more likely than helmeted motorcyclists to incur serious head injuries that require expensive and long-lasting treatment. No one will argue with that. I mean, that is common sense.

These are two experienced riders. I would be interested if they, one, wear helmets; and, two, if they think helmets are useless and do not do any good.

Second, the cost of overall motor vehicle crashes, including motorcycles, is staggering to the country. The only reason I combine automobiles and motorcycles in this particular statistic is because we do not have figures broken down by the National Highway Safety Administration. But motor vehicle crashes cost over $137 billion each year.

Even for somebody from Washington, $137 billion is a lot of money. Over the past 10 years, motorcycle helmets have saved over $6.4 billion a year, according to the statistics I have.

Let me just give you a little instance. I have used this statement before. But it is one that I am familiar with because it came up in my State. We have in our State hospital an individual who, through an unhelmeted accident, has been in a coma for nearly 20 years, and 24 hours a day has to be cared for, fed and cared for, at a cost to taxpayers of over $2.5 to $3 million.

What do we do? Here we all are in the Senate and in the House, always talking about preventive measures, always talking about the skyrocketing costs of medical care in the United States. We have to do something about Medicare and Medicaid. We have to do something about hospital costs. Here is about as effective a way as possible.

Is this going to solve all the health cost problems of our country? Of course, it is not. But every little bit counts.

Here is a statement from a doctor from the Centers for Disease Control.

> We are unaware of any evidence that demonstrates that testing or licensing or education alone leads to anywhere near the improvement in helmet use that mandatory laws produce.

What he is saying here is do not leave it up to the States to do what they want, because what will happen is we will not have the laws.

Now, there is objection by the Senator from Maine to the suggestion I made that State legislatures and State legislators are more subject to pressure than we are. And that is true. I served in a State legislature, so I know something about it. The motorcyclists of the country are a very, very dedicated single-issue group, and they will descend on a legislator and put on a full-court press. And that is the issue that they will vote on. It is the epitome of the single-issue vote. And that legislator in his or her district frequently, in their desire to be reelected, which is nothing unique, nothing unusual in our country, says OK, if you care so much about it, I will go along. I will vote against any effort to mandate motorcycle helmet use.

How can I say that? Because in 1966, we enacted a law right here in the Federal Government that said you had to have helmets, and in 1976 we repealed it. As soon as the Federal Government

repealed that incentive, the 28 States likewise repealed what they had on the books, including my own State of Rhode Island, and we have not been able to get that back on the books yet in my State despite the presence of this law and despite the fact that we desperately need highway funds.

Now, has it worked when we have passed this legislation and States have adopted it? Has it worked? Well, I will quote California again. I suppose there are more motorcycle riders in California than in any State in the Nation—total. Maybe not per 100,000 people but total riders. The number of fatalities in California, after they enacted a mandated helmet law, dropped by 36 percent. The number in Maryland, after they adopted it, dropped 20 percent. Of course, there are millions of dollars in savings by the States once these accidents and fatalities had been reduced.

So, Mr. President, I very much hope that we will not approve this amendment of the Senator from Maine.

I have a question I would like to ask the Senator from Maine. That is, one, does she agree that there are substantial costs involved in the accidents that come to those unhelmeted riders? That is the first question. Second, are those costs to a considerable degree borne by the Federal Government? Those are the two questions I have.

Ms. SNOWE. I appreciate them. In response to the Senator's questions, first of all, as I said in my statement earlier, when I have ridden a motorcycle, I have always worn a helmet, and I certainly would advise anybody who is riding a motorcycle to wear a helmet.

The question is, Who should decide when someone wears a helmet? Should the Federal Government decide it or should the State decide it? That is the question we are trying to determine here today. It is a basic philosophical question that needs to be addressed. I do not happen to think the Federal Government should be the determining factor in who is going to wear a motorcycle helmet.

The second question is in terms of incurring costs, and I mentioned yesterday, where do we draw the lines in terms of personal and social behavior and what impacts Federal health care costs? That is a basic question. Because, first of all, we know there is behavior that could result in more costs in the Medicaid Program, for example. If somebody smokes, it leads to cancer. If somebody does not engage in a good diet or engage in regular exercise, it leads to heart disease. Or chewing tobacco. Whatever the case may be, that results in more health care costs.

Where do we at the Federal level draw that line? That is also a question that needs to be addressed here today.

To even answer the Senator's question more specifically, I would like to mention a study that was conducted at the Harbor View Medical Center in Seattle, WA. They reported that 63.4 percent of the injured motorcyclists in the trauma center relied on public funds in order to pay their hospital bills. According to testimony by the director of the trauma center, 67 percent of the general patient population also relied on taxpayer dollars to pay their bills.

A study that was conducted by the University of North Carolina Highway Safety Research Center found that 49.4 percent of injured motorcyclists had their medical costs covered by insurance, while 50.4 percent of the other road trauma victims were similarly insured.

So I think, first of all, we are being selective here in who do we determine is impacting health care costs. But secondly, the question is whether or not the Federal Government should intrude to such an extent as to require States to pass laws. And the Senator mentioned that it does not cost the States any money. Well, technically the Senator is correct. But that money is transferred to programs that are already well-funded.

Does it make sense for my State to have to pay twice as much in safety programs when it has already determined that it is not necessary, that $500,000 is sufficient, not $1.3 million? That is not money they can spend on other things that are also essential to the well-being and the welfare of the residents of my State.

So I would suggest to the Senator that by singling out motorcycle riders and saying that they are having the greatest effect on our medical costs in the country is certainly not a fair characterization. I just do not happen to think that this is an appropriate area for us to be governing here in the Congress.

I, too, was in the State legislature in the State of Maine for 6 years, and I do not think the pressures on a State legislature are any different than the pressures we face by any one group by serving in the Senate or the House of Representatives. I doubt anybody would believe it if you suggested differently.

The fact is, looking at the merits of this question, 24 States had already adopted helmet laws before the ISTEA penalties took effect—24 States. They had already decided in their own wisdom that it was important for the residents of their States to have that requirement. So they decided it on their own, to their credit.

The Senator mentions the State of California. Well, again that is another example. The State of California passed its law prior to ISTEA passing in the U.S. Congress in 1991. It took effect before ISTEA was even passed in the Congress. So they determined it in their own wisdom. They do not need the Federal Government telling them what to do. That is what the whole issue is all about.

Mr. CHAFEE. Well, Mr. President, I do not think that is what it is all about. Everybody can define the issue as they wish. But the real question is does the Congress have any interest in the safety of its citizens riding its roads. And I believe we do. We have a deep interest. We have a deep interest because of the pain and suffering that arises but also because of the costs.

The Senator from Maine is familiar with the letter that came from the Eastern Maine Medical Center, which she herself received. It is a study of the Medicaid costs that arise with those who are unbelted or with no helmets. It is a very, very persuasive study that was done.

What are we talking about when we are talking Medicaid? We are talking Federal dollars. And so for that reason alone—never mind the suffering that arises. I have seen it. I am sure the Senators from Colorado and Maine have likewise visited their rehabilitation centers and seen individuals who were so severely damaged because of head injuries as a result of not having helmets, some who end up in comas, some who end up in terrible physical condition. These could have been avoided.

I just cannot understand that we go backward. It is on the law now. It is not resisting the presence of the law, the enactment of the law. It is repealing the law. And yesterday, thank goodness, we rejected the effort to repeal the seatbelt requirement, and I hope we will reject this effort to repeal the motorcycle helmet effort.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. I would like to respond to a few of the comments my friend, Senator CHAFEE, has made.

First of all, since I come from the State of Colorado, I can tell him that I called the State agencies to try to find out if there was any agency in our State that kept track of people who are being paid because they were incapacitated under what is commonly called the ''public burden theory.'' The public burden theory, as I mentioned yesterday, basically says that if you are injured and you have no insurance and no way to pay for your hospital bills, the public picks up the cost. In the State of Colorado there are no numbers whatsoever that define which people are incapacitated by automobile injuries, by motorcycles, by skiing or anything else. If they are injured, they do not have an insurance policy and they do not have finances to take care of themselves, they are put in a pool. That is what I am told by the State of Colorado.

I would also like to point out that we are concerned that the Federal Government sometime or other is going to get involved in defining all forms of personal behavior that have some element of risk. That may include skiers in my State. We had something like five deaths this year on the slopes of Colorado. None of them were wearing a helmet. Perhaps we should mandate that they do because it is on Federal ground and, therefore, the Federal Government has some kind of a vested interest.

In the State of California, since my colleague mentioned that a number of times, I would tell him that bicycles recently in the State of California came under a State law that requires everyone to wear a helmet that rides a bicycle. But the Federal Government did not mandate it. It let the State of California make its own decision. And if that is what the people of California want, and the legislature, their elected officials want, then that probably fits all right in the State of California. I do not think we would want it in Colorado. But clearly we let them make the decision.

Now, I mention California because there is over 100 times more head injuries and automobile accidents than there is on motorcycles and over ten times more deaths.

Recently—several years ago, in fact—there was an assemblyman named Dick Floyd of Hawthorne, CA, who told a radio audience in Los Angeles that he favored a helmet law for automobile drivers and was thinking of introducing a bill to mandate that everybody that drives an automobile in California wear a helmet, even though there have been instances where the California Highway Patrol have given citations for people that were wearing a helmet in automobiles. And the reason they gave them is because they cut down hearing and visibility. Mr. Floyd's comments came during a debate during appearances concerning a helmet bill which he introduced in California, and did pass, by the way, for motorcycles. Mr. Floyd was not reelected. So he is no longer in the State legislature, probably for a good reason, because I think he believed in taking away personal choices and personal freedoms.

There is another thing I would like to say. I hope that my colleague, Senator CHAFEE, does not imply that within States where people elect their own legislators they do not have elected officials that can make decisions for their own constituents and that we should overrule them at the Federal level, because I think that is absolutely wrong.

He mentioned something about who pays the bills under the highway users trust fund, the gasoline tax. But we have 3.5 million people in Colorado, most of whom drive, who pay money every time they buy a gallon of gasoline in any gas station, as your State of Wyoming does, the State of Maine does, where my colleague, Senator Snowe, is from. That money goes into a pool, the highway users trust fund, that people in those States have every right to expect to be paid back for construction in the States. There was nothing, to my knowledge, in the enabling bill, the bill that originally set up the highway users trust fund, that said we are going to collect a tax from you, however we are only going to give it back if you comply under this condition or that one, which may be a mandatory helmet law. The money is supposed to go back to the States for construction. As it is now, under the mandatory section of ISTEA that did pass—and we are trying to get repealed—they simply do not have that option. It is simply a Federal blackmail of the State governments.

Now, we can stand, I guess, here all day and hear some of the horror stories, the public burden theory, who was injured, who was not, and we should have mandatory laws dealing with them about their recreation. But I would point out that the Federal Government simply cannot get involved in every form of behavior in which there is some risk. Melanoma is a skin cancer from sunbathing that kills more people than motorcycle accidents, yet we do not outlaw sunbathing or require they have certain kinds of Sun screen on, or tell them we will deny some funding under Medicaid or Medicare if they do not.

Swimming and diving accidents cause more quadriplegics each year than motorcycling, yet we have not outlawed swimming and diving. I think it gets beyond ridiculous when we tell States that we are going to require certain things that take away fundamental rights and deny them money that they have every right to if they do not comply with what we think they should be doing with their recreation in private states.

With that, I yield the floor, Mr. President.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I have here a document from the Colorado Department of Transportation, University of Colorado, Health Sciences Center. It is a news release dated February 15, 1994. And it says here, ''In the past three years—1991–93—134 motorcyclists have been killed in traffic crashes in Colorado. Ninety-six of the victims—72 percent—were not wearing helmets.'' So whatever is happening in Colorado, apparently it is not encouraging the use of helmets very much, as of the date of this, anyway. ''Young riders are overly represented in the motorcycle fatality figures. Sixteen to 20-years old represent about 4 percent of the licensed motorcyclists in the state, yet during the past three years they have accounted for 15 percent of the deaths. Twenty of the motorcyclists killed—1991–93—were aged 16 to 20.''

And then a quote from Dr. Steve Lowenstein, associate director of the University of Colorado Health Sciences Center.

Motorcycle crashes almost always have dire consequences.

In 1991 and in 1992, there were 3,668 crashes involving motorcycles in Colorado. Of those, 80 percent resulted in either the death or injury to the motorcycle rider. Helmets could have prevented many of those injuries, saving taxpayers millions of dollars in health care costs.

And then it goes on to point out in 1991 and in 1992, just 2 years, 2,824 motorcyclists were injured in crashes in Colorado with about 600 of those riders suffering traumatic brain injuries. The 1993 injury data was not yet available.

Studies have documented that unhelmeted motorcycle riders sustain serious to critical head injuries three to five times more often than helmeted riders.

So I do not think this should be an argument about States rights or the Federal Government imposing demands, requirements. We are dealing here with human beings, human beings all across our country. And these young people or those who are not so young could have been maintained in far greater health and prevented terrible injuries that could have been prevented with the presence of helmets. And we should do everything we can to encourage helmet use. I think we should do that. So, Mr. President, I would very much hope that this amendment would not be approved.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. I will ask unanimous consent to have printed in the RECORD a letter from the Colorado Department of Transportation that lists the three highest priorities for the Colorado Department of Transportation, one being the repeal of the mandatory section of ISTEA which the Snowe amendment does. I would like to point out again for my friends who are watching this debate in their offices on television, this is not a question of whether you should or should not, as my colleague implies.

It is a question of who makes the decision, whether it should be done in the U.S. Senate or whether it should be done at the State level.

There also is no question that we are getting sidetracked a little bit, because it seems to me that his statements imply that somehow helmets prevent accidents. They do not. They do not prevent accidents. They may prevent some deaths, but clearly we have a number of studies also that say rider education training prevents more.

So somewhere along the line, we have to define what it is we are talking about, and we are not talking about whether you should or should not, we are talking about who makes the decision.

I do not want to monopolize the time. I see my colleague from South Dakota on the floor, so I yield the floor.

Mr. PRESSLER. If my friend will yield.

Mr. CAMPBELL. If the Senator can speak on his own time.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I would like to discuss briefly the important issue of motorcycle safety. I have been a motorcyclist for many years. I had a motorcycle when I was a second lieutenant in the Army, and have ridden many times over the years. In fact, I am the owner of a Harley-Davidson Heritage Softail Classic. I enjoy riding

it on the weekends when I am home in South Dakota.

While much debate has focused on the safety of motorcycle helmets, I do not want us to overlook another very important issue: motorcycle rider training. In my view, proper motorcycle training is even more critical to safety.

To update my license, I recently completed one of the motorcycle rider training courses endorsed by the National Motorcycle Safety Foundation. This 2½-day course—which took place Friday evening, and all day Saturday and Sunday—consisted of both classroom and hands-on instruction. It is a very rigorous course designed to teach even a beginner how to handle a motorcycle safely. I must say, I learned a lot of things about motorcycles that I did not know, and about safety.

Mr. President, according to statistics, about 62 percent of all the accidents involving motorcycles involve some sort of use of alcohol. I also want to point out the accident rate is very low in those States where motorcyclists have completed motorcycle safety courses. That is because the training courses strongly emphasize safety. Congress should emphasize safety education too.

In South Dakota, motorcyclists are urged to take rider training courses. I think that is a very important. Across the Nation, if we had more people taking motorcycle training courses, we would have more skilled riders. In my judgment, Congress can best promote safety by encouraging motorcyclists to enroll in motorcycle rider training courses.

As many of my colleagues know, the Sturgis motorcycle rally is held in my home State every summer. We have thousands of motorcyclists coming to South Dakota for this annual event. Some wear helmets and some do not. We do not have a helmet mandate. It is a matter of individual choice.

So I join with my friend from Colorado in the remarks that he has made, and I hope to soon ride my new Harley-Davidson Softail with him.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, the Senator from South Dakota added an element that has not been discussed, and that is the financial implications.

I point out—he probably already knows this—according to the South Dakota Tourism Council, motorcyclists put $57 million a year into the South Dakota economy. Three years ago, a study was done by the town of Sturgis that he mentioned, at which about 150,000 to 200,000 people show up every summer for a big celebration. The Chamber of Commerce did a study of the people that were there 3 years ago, and they asked the people that came to South Dakota if they would come back to South Dakota to Sturgis if the State of South Dakota had a mandatory helmet law.

I do not have the exact statistics, but the number was very close to 50 percent said they would not come back to South Dakota if they passed a mandatory helmet law.

There are a lot of other elements to the financial picture, too. My friend from Rhode Island mentioned California—he mentioned that several times—and the reduction of deaths after helmets were introduced. What he failed to mention was that it was also at the same time that the same training that my colleague from South Dakota went through was implemented and expanded in California. It is one of the leading States for motorcycle training. So deaths also went down because of the training.

In addition to that, he also failed to mention in the 3-year period of time, registrations of new motorcycles in California dropped by 50 percent. There were simply fewer people riding fewer miles, so that also would have an impact on the injuries and deaths. I point that out because it is something that has not been discussed in this whole debate about choice. I yield the floor.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I just want to make a couple of additional points. I think a lot of the debate has centered on many of the issues that also were raised yesterday and are important to reiterate. But I think it is important since we are talking about the issue of safety, in terms of the statistics that have been given with respect to motorcycle safety.

According to the National Highway Traffic Safety Administration, in 1993, the motorcyclist fatality rate per registered vehicle has decreased by more than 50 percent since 1966. Senator PRESSLER mentioned, and Senator CAMPBELL, who has taken the rider education course, how effective and valuable it is, and that is why the States have decided unilaterally, without any coercion by the Federal Government, to establish those programs because they know it is essential to reducing fatalities and accidents on the road.

I also would like, as I did yesterday, because I do think it is critical, since the chairman is from the State of Rhode Island, to read part of a statement that was given by a State senator before his committee back in March. He says in his statement that:

> In a year when unfunded mandates are a target of Federal legislation, it may be said that section 153 is an unfunded suggestion.
>
> Section 153 also has a negative economic impact on the State of Rhode Island. The Federal Highway Administration has stated that every $1 billion in highway construction monies creates 60,000 jobs. Although the funding is not being rescinded, the transfer of funds will result in the loss of approximately 40 construction jobs. These are difficult economic times, and Rhode Island has been hit hard by defense cutbacks, as well as national recession. If each job paid $30,000, the impact on the Rhode Island economy could be greater than $1.2 million.

The State senator goes on to talk about how there has been a dramatic reduction in fatalities and accidents in Rhode Island. He said:

> . . . the number of deaths related to motorcycle accidents have declined significantly in proportion to the number of motorcycle riders on the road. In 1976, the last year that the motorcycle helmet law was in effect, there was more than 1 death per every thousand riders. In 1994, there was less than .5 deaths per thousand riders. . . .
>
> In 1993, the number of fatalities per 10,000 registrations was lower in Rhode Island than in many States with motorcycle helmet laws. Massachusetts, which applied strict helmet wearing standards for motorcycle riders, has a fatality rate a full point higher than Rhode Island. . . .
>
> Much of the success can be attributed to motorcycle rider education programs, which were first implemented back in 1980. . . .
>
> Furthermore, Rhode Island also had the second lowest rate of all motorcycle accidents per 10,000 riders, behind only Oregon, which has a helmet law in place.

So I think it goes to show that the experiences in various States that have been through the rider education program in making a difference and having an impact on highway safety with respect to motorcycle riding.

I also would like to read a paragraph from the Bellevue News Democrat, in Illinois, from September 14 titled ''Independent of Blackmail, Summed Up the Issue'':

> If the Federal Government is so hot on motorcyclists wearing helmets, why doesn't it adopt a national policy? Because it realizes this is the type of decision that rightfully belongs to the individual States, as long as the decision is the one that the Federal bureaucrats want, that is.

I think that appropriately sums up the problem we have here today with these kinds of penalties. It will not end here. It will continue, somehow thinking that we know more than the States in terms of what is occurring on their highways.

I also will mention that the States have debated these issues at great length. There were 109 bills introduced on helmet laws and zero adopted, since ISTEA penalties became effective—109 different bills. So it was adequately debated in the States. They will determine their own wisdom whether or not they should adopt a helmet law. That is where that decision belongs.

I ask unanimous consent to add Senator GREGG from New Hampshire, Senator WELLSTONE from Minnesota, and Senator BROWN from Colorado as cosponsors of my amendment, Mr. President.

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

Ms. SNOWE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. At the proper time, I will ask to table the amendment.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I ask unanimous consent to cosponsor the Snowe-Campbell amendment.

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

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, we have heard a lot of debate. I think we are pretty close to a vote. I do not think there is anybody on this floor who is not worried about highway safety, or about deaths of motorcycle riders from head injuries. But that is not the issue. The issue we are deciding here is, who should make these decisions? Should it be the U.S. Federal Government by way of the U.S. Congress that should decide whether people should wear helmets? Or should it be State legislatures, the Governor, and the people in their own jurisdiction?

I think the time has come, Mr. President, where it is important to gain public confidence in Government. I think a lot of people today feel alienated from Government. They feel Government is too distant, too remote, maybe arrogant and heavyhanded. I do not think there is much doubt about that. That is a more prevalent feeling in America today than in the last 10 to 15 years.

Why has that happened? There are a lot of reasons. One reason is because the world is much more complex. The cold war is over, which caused a certain anxiety in this country. A lot of people are concerned about their jobs, and there are a whole host of reasons why people tend to be a little bit alienated from and inclined not to believe their Government is doing what should be done.

This amendment is one opportunity for us to address a small part of that. We can give the decision making ability on helmets to the States. Let the people decide for themselves whether they want to live free or die. Let people decide whether they want to wear a helmet. Let people decide, according to the State legislatures, what they want to do. They will debate this issue and come to a reasonable conclusion. Some of us may not agree with that conclusion, and some of us may agree with that conclusion. Different States will reach different conclusions. But at least the people at home in the States we represent will be a little closer to the decision that is made.

We are not going to solve all of our country's problems today—not even a large portion of our country's problems. We have to take each step at a time. Today we are faced with a very small step, but important step. Let people in our own States decide for themselves whether there should be a helmet law. It is that simple.

The issue is not whether we are concerned about safety on the highways. That is not the issue. The issue is not whether—with all due respect to my good friend from Colorado—there is a greater incidence of bike fatalities with persons who do not wear helmets compared with those who do. We should not be debating that issue today. The issue is: Who should decide, the Congress or the States? I believe it is an issue for the States themselves to decide.

I am glad the Senator from Maine is offering this amendment. I think it is an opportunity for people in our States to get a little closer to the decisions that are made, and maybe in a small way help restore a little bit of confidence they have now in Government generally.

I urge the Senate to adopt this amendment.

Mr. CAMPBELL. Mr. President, I thank the Senator from Montana. He enjoys great respect in this body and is looked to by many of the Members for his leadership. I think he has spoken in very clear terms on what this debate is all about. It is really a State rights issue. An implication has been made that if we repeal this mandatory section of ISTEA, there is going to be a pell-mell rush by States to repeal whatever they have in place now. Some States have helmet laws for everyone; some have it for 18 and under; some have it for under 1 year of experience. It is a hodgepodge of things now. Very clearly, 25 States do not have full compliance. I do not see them changing.

I think that in a number of States, they have dealt with this over and over, and they simply see this as a Federal blackmail system, and they are not going to give up. I can tell my colleagues on the other side of this issue that I do not intend to give up, and I am sure Senator SNOWE will not. The people who believe in States rights and the 10th amendment will not give up.

We talked almost 3 hours on this issue yesterday, and another 2 hours today. I say to my friend, the Senator from Rhode Island, that I am willing to stay here all night, and I am sure others are, too. I would like to ask the Senator from Rhode Island if he will consider some kind of a time agreement on which we can end this debate and have a vote.

Mr. CHAFEE. We are ready to vote now. If this amendment is adopted, it is absolutely clear that the States, just as they did in the period of 1976, will repeal the mandatory helmet laws they have on the books. That is the next objective of the motorcycle association. They will be on every legislator's doorstep pressuring, demanding, and the result will be that the States that have it will repeal their helmet laws. And the result of that will be increased deaths on our highways from motorcyclists not wearing helmets, not having helmets. I think it is a very unfortunate step.

If the Senator is through speaking, I will move to table.

Ms. SNOWE. Mr. President, first, I wanted to ask unanimous consent to include somebody as a cosponsor.

Mr. CHAFEE. That is fine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, I ask unanimous consent to include Senator COHEN of Maine and Senator THOMAS of Wyoming as cosponsors of my amendment.

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

Mr. WELLSTONE. Mr. President, I am pleased to join my colleagues in sponsoring an amendment to eliminate the penalties on States that do not require the use of motorcycle helmets. I do not support efforts to force States to institute helmet laws, particularly States like Minnesota that already have effective motorcycle safety education programs.

I would have preferred to join in an alternative amendment that would have repealed current requirements that States enact helmet safety laws and replaced it with a requirement that States enact helmet safety education programs. However, that alternative amendment, which had been prepared by one of my colleagues, was not actually offered. I am therefore supporting the amendment before us, and as I pointed out, Minnesota does have a motorcycle safety education program.

Mr. President, Minnesota had a mandatory helmet law for 10 years—1968–1977. Proponents in favor of this law stated, ''A mandatory helmet law will dramatically reduce motorcycle fatalities.'' During the 10-year period Minnesota had a mandatory helmet law, fatalities did not go down per 10,000 registered vehicles. In fact, fatalities continued to increase almost every year.

Mr. President, Minnesota has not had a mandatory helmet law for 10 years. Our 1993 fatality rate plummeted an incredible 72 percent in spite of doubling the number of licensed motorcyclists. Since the inception of Minnesota's Rider Education and Public Awareness programs, motorcycle fatalities have been reduced 54 percent.

Mr. President, the Minnesota legislative body has analyzed and debated the helmet law issue many times in the 18 years since the helmet law was repealed. Legislators have repeatedly concluded; Minnesota does not need a mandatory helmet law.

Mr. CHAFEE. I now move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 36, nays 64, as follows:

[Rollcall Vote No. 274 Leg.]

YEAS—36

Akaka	Bond	Bradley
Bingaman	Boxer	Bumpers

Byrd	Harkin	Lieberman
Chafee	Hatfield	Mikulski
DeWine	Heflin	Moynihan
Dodd	Hollings	Murray
Faircloth	Inouye	Pell
Feinstein	Johnston	Pryor
Ford	Kennedy	Reid
Frist	Kerrey	Rockefeller
Glenn	Lautenberg	Sarbanes
Gorton	Levin	Simon

NAYS—64

Abraham	Feingold	Moseley-Braun
Ashcroft	Graham	Murkowski
Baucus	Gramm	Nickles
Bennett	Grams	Nunn
Biden	Grassley	Packwood
Breaux	Gregg	Pressler
Brown	Hatch	Robb
Bryan	Helms	Roth
Burns	Hutchison	Santorum
Campbell	Inhofe	Shelby
Coats	Jeffords	Simpson
Cochran	Kassebaum	Smith
Cohen	Kempthorne	Snowe
Conrad	Kerry	Specter
Coverdell	Kohl	Stevens
Craig	Kyl	Thomas
D'Amato	Leahy	Thompson
Daschle	Lott	Thurmond
Dole	Lugar	Warner
Domenici	Mack	Wellstone
Dorgan	McCain	
Exon	McConnell	

So the motion to lay on the table the amendment (No. 1442) was rejected.

AMENDMENT NO. 1443 TO AMENDMENT NO. 1442

(Purpose: To limit the repeal to apply only to States that assume the Federal cost of providing medical care to treat an injury attributable to a person's failure to wear a helmet while riding a motorcycle)

Mr. CHAFEE. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself and Mrs. HUTCHISON, proposes an amendment numbered 1443 to amendment No. 1442.

Before the period at the end of the amendment insert the following: ''and inserting 'a law described in subsection (a)(1) (except a State that by law assumes any Federal cost incurred in providing medical care to treat an injury to a person in a motorcycle accident, to the extent that the injury is attributable to that person's failure to wear a motorcycle helmet) and' ''.

Mr. CHAFEE. Mr. President, let me explain this amendment, if I might.

This is an amendment to gratify the hearts of all the believers in strong States rights and get the Federal Government off our backs and out of things.

This amendment says that the current law involving the dedication of certain funds for highway funds for safety and training will go into effect unless that State passes—and seatbelts and motorcycle helmets will be required—unless that State passes a law saying that none of the medical care to treat an injury to a person in a motorcycle accident, to the extent that the injury is attributable to that person's failure to wear a helmet, no Federal funds will be used to pay for that health care.

In other words, what we are saying, and I said right along here on the floor, is that the Federal Government should not be caught with the cost if the State does not want to mandate motorcycle helmets. Other people say it ought to be left to the States. That is fine. But let us not have the Federal Government caught with the cost. So this means that the Federal share will not be payable if a State does not enact such a helmet law.

It seems to me that it is a very fair thing. We are saying if we pay the piper, we ought to have some say. But people do not want that. They do not want the Federal Government to have any say requiring motorcycle helmets. So we say, OK, you do what you want, but we, the Federal Government, will not pay our portion of the Medicaid, principally, and it will apply to Medicare likewise.

So, Mr. President, I think it is a good amendment. The Senator from Texas has been active in this. I commend her for it.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas.

Mrs. HUTCHISON. Mr. President, I am a cosponsor of this amendment. I voted not to table the Snowe-Campbell amendment because I do believe in States rights. But I also have a concern about the States lifting this helmet law and then expecting the Federal Government, through Medicaid or through other public grants, to pay for the cost of their lifting. I am a States righter. I think this should be a State issue. But I also think that with the right comes the responsibility.

So, if the States decide within their rights to lift the laws requiring the use of helmets on motorcycles, I then think it is incumbent on the States to take the responsibility if the person does not have private health insurance.

The statistics show that 64 percent of the inpatient charges for motorcycle-related accidents are provided for by private health insurance. But that leaves 19 percent for public, and 17 percent from other sources, including Medicaid.

So you can see that there is a large percentage of these injuries that could be publicly paid for. I think people do have the right to enact State laws that govern how people on highways perform and how they protect themselves and what kind of safety issues you should have. I am a believer in States rights, and I also think with that right goes responsibility.

So I am cosponsoring the amendment, and I appreciate the work that everyone has done on this issue. I thought this might be acceptable to both sides. But I think maybe it is not. I would like to reserve a little time at the end of the debate to finish in closing.

Thank you, Mr. President.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado.

Mr. CAMPBELL. Mr. President, before I make any comments, I would like to make a parliamentary inquiry. If the Hutchison amendment is adopted, then is this further subjected to a second-degree? Does this become a first-degree?

The PRESIDING OFFICER. The Snowe amendment, as amended, if this were to prevail, would then be open to further amendment.

Mr. CAMPBELL. Further question: Are we to assume that it would then be open to further amendments dealing with Medicare or Medicaid?

The PRESIDING OFFICER. The Senator is advised that the relevancy of further amendments would be determined by the Chair on a case-by-case basis.

Mr. CAMPBELL. I thank the Chair.

Mr. President, I tell you, with all deference to my friend and colleague, Senator HUTCHISON, for whom I have great admiration and respect, I think, very frankly, this is a terrible amendment.

First of all, if we are trying to deal with helmet use, we do not want to fool around with the money that goes through our Medicare system to States. I think it is a real mistake to open up that issue because we would have to have a whole bunch of amendments dealing with that. I can tell you that I am not a constitutional attorney, but I think when you discriminate against one class of people, when you tell them that they will be denied funding under these programs because they do not wear helmets, but they will not be denied the same money if they get injured through any other kind of pursuits. I think in the courts it would be fairly unconstitutional. I look forward to finding that out, if this amendment does pass.

Second, I do not know where it would leave the 25 States that are not in compliance now. Are we going to tell millions, if not hundreds of millions of Americans, in those 25 States that we are going to add another burden and we refuse to grant them some kind of Federal help under these services if they do not comply with the mandatory helmets under ISTEA?

So I just tell you, I think it is a terrible mistake, and opens up a can of worms that could be amended further and further dealing with all kinds of recreational pursuits.

I hope that my colleagues will reject it.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I would like to speak to this amendment.

I would be in opposition to the amendment, it seems to me, for these reasons, unless it can be clarified: If a motorcyclist were simply stopped at a light and a car made an illegal turn or in some other manner struck him, or her, as the case may be, then I understand this amendment would apply. Would that be correct?

Mrs. HUTCHISON. No, it is my understanding of the amendment, if the injury is attributable to the person's failure to wear the motorcycle helmet.

Mr. WARNER. Suppose they did not have a helmet on. They are standing there motionless and a car violated some law and struck the person.

Mrs. HUTCHISON. I think it would be very easy to determine if the person was injured by not having a helmet on or not.

Mr. WARNER. Well, they might go off the bicycle and, indeed, suffer a head injury. That person then would fall within the statute?

Mrs. HUTCHISON. If a helmet would have prevented the injury, absolutely, and that is the purpose of helmet laws.

Mr. WARNER. Even though the cyclist is totally innocent of malfeasance or negligence?

Mrs. HUTCHISON. The reason that some States do have helmet laws—and this is, of course, I believe, a State issue—is because it is a protection. Whether you are hit or whether you fall or whether you are thrown from a motorcycle, the purpose is to try to keep down the injuries because you do not have the protections of a car. So regardless of fault, if you are injured because you did not have a helmet on, yes, you would fall under this amendment.

Mr. WARNER. Now, if the injuries were a combination of head injuries and, say, torso or limb injuries, you could get the Federal subsidization through Medicare or Medicaid for the injuries other than the head injuries, would that be correct?

Mrs. HUTCHISON. Yes, I think so. We are talking about the States taking the responsibility for not having a helmet law for what might happen for people who do not use them.

Mr. WARNER. So a cyclist could receive compensation, Federal compensation for any injury other than a head injury?

Mrs. HUTCHISON. Yes, I would say so.

Mr. WARNER. Mr. President, I would say to my two good friends here, it seems to me we had what I would characterize as an honest, fair debate on the underlying amendment, and with some reluctance, because I have always tried to myself be concerned about the expenditures of the Federal taxpayers for these types of accidents, I support the prevailing side on this amendment. I do so because it seems to me this is a clear question of States rights to this Senator, and I find that on the other votes on this bill, where I stood toe to toe to try and protect the Federal speed limit and stood toe to toe to protect the requirement to wear seatbelts, even though I am a strong States rights person, in this instance it is different.

Why is it different for this Senator? Because in the case of speed limits and seatbelts, I find there is a direct correlation to other drivers of automobiles, because they could be injured innocently as a consequence of excessive speed by another driver or that driver in another vehicle not wearing a seatbelt and thereby losing some control over the vehicle and causing injury to an innocent person.

We lost on that speed limit. But it seems to me this is a case where we let the States decide, like let the riders decide to wear or not to wear a helmet. And therefore I find the amendment, in my judgment, begins to open up a series of legislative moves in an attempt to undermine the underlying amendment when we had a perfectly fair and open fight and discussion and debate on the underlying amendment.

Therefore, I would have to associate myself with those who will be in opposition, I regret to say to my distinguished chairman. We are both chairmen. He is the chairman of the committee. I am the chairman of the subcommittee. But at this point, he is in the chair.

Mr. CHAFEE. Mr. President, throughout the discussion yesterday on the amendment of the Senator from New Hampshire and the amendment today of the Senator from Maine, there was great accent on freedom, freedom to choose—we should respect the State legislatures in that they will do the right thing and that the Federal Government should get out of it. And the Federal Government was chastised in many of the remarks made here as a big, overpowering force; that we should do everything to avoid bringing the Government closer to the people.

That was the argument. All right. But the argument we were making on the other side was that the Federal Government has to pay the bill frequently through Medicare and Medicaid. In every instance in Medicaid, the Federal Government is paying more than 50 percent. So that argument was blown away by a very, very heavy vote.

Now what we are saying is, OK, let the States decide, let the States forgo the so-called mandatory helmet bill, but if they do, then the Federal Government will not step in and pay the medical costs of an individual injured as a result of not wearing a helmet.

So this is a very, very simple amendment. I should think it would thoroughly satisfy the States righters because they get everything they want, and indeed they are avoiding the problem of the big Federal Government coming in and paying some of the bills, if that presents a problem.

So all we are saying is that where there is an injury attributable to that person's failure to wear a helmet, and the State does not have a helmet law, the Federal Government should not have to pay either Medicare or Medicaid. Let the States pay it. I think it is a very fair deal.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. BAUCUS. Mr. President, this is a very simple amendment. It reminds me of something a very famous journalist, H.L. Mencken, once said. He said for every complicated problem, if there is a simple solution, it is usually wrong. This is a very simple solution, but I think it raises a lot of important questions. I would like to ask if the Senator from Texas might respond to some of these questions.

As I understand it, this amendment deals with the treatment of States that do not have a helmet law. For those States, that do not have a helmet law, that State could not use Federal Medicaid funds to pay for unhelmeted riders injured in motorcycle accidents. Is that correct?

Mrs. HUTCHISON. No. It goes toward the State that decides to make that decision to also take the responsibility for injuries caused by making that decision.

Mr. BAUCUS. No, no. As I read the amendment, it says in the last words in the last few lines ''to the extent that the injury is attributable to that person's failure to wear a motorcycle helmet.''

Mrs. HUTCHISON. That is correct. But we are putting the responsibility on the State, if they decide not to have a helmet law.

Mr. BAUCUS. Let me ask another question. What happens if a person who is injured is not wearing a helmet and the physician then has a hard time determining the degree to which the injury the person suffers is attributable to not wearing a helmet, and then other injuries that would otherwise occur. Let us say it is a neck injury; let us say this person is thrown from the bike, for example, and falls on the pavement. It is partly a head injury; it is partly a shoulder injury; there may be another injury. So is the doctor then supposed to write out a form as to what percent of the cost is attributable to the head injury and what percent of the cost is attributable to the other injuries that occur?

Mrs. HUTCHISON. I think it would be very reasonable to do that actually. I think whether you have a head injury or do not have a head injury is easily ascertainable. And yes, I think you could devise a——

Mr. BAUCUS. Let us ask the next question. Let us say there is a superficial head injury, a cut, but the person goes into shock, and the hospital bills are very extensive but there appears to be just a superficial scrape to the head.

Now, which portion of the hospital bills would be paid and which portions not?

Mrs. HUTCHISON. I think a doctor is going to be able to easily discern what is caused by not wearing a helmet. I do not think that is going to be a big deal for a doctor.

Mr. BAUCUS. But it is true that, if this amendment were to pass, the hospitals, nurses, doctors, and other health care providers involved with this patient would have to go through a lot of hurdles in determining what portions of the injuries are attributable to not wearing a helmet. This

will require a lot of paperwork to document all this. Is that not correct?

Mrs. HUTCHISON. No. I think you are obviously making something that is not there because you do not think this is a good amendment, which is your right. But I think the issue here is, if a State wants to pass a law that says people do not have to wear motorcycle helmets, they have the right to do it. All we are saying is, they also have the responsibility to pay for it. I think that is fairly simple. I think it is fairly clear.

Mr. BAUCUS. Let us think about the additional paperwork required to meet the demands of this amendment. Paperwork for hospitals, doctors, and nurses.

Has the Senator made an assessment of how much more paperwork this would cause?

Mrs. HUTCHISON. The State has the option. This is not something we are forcing them to use. The States have the option. They can decide to not have a helmet law and take the responsibility for the injuries, or they can have a helmet law and try to prevent those injuries. It is just a matter of whether the Federal Government is going to pay for this State right. You know, I am very much for States rights. I am very much against unfunded mandates. But I think it is very important when you are dealing with the highways and safety on the highways, which we do with seatbelts and helmet laws, if States are going to take the responsibility to make the decision, which I think they have a right to do, I think they should have the responsibility to pay for it rather than send the bill to the Federal Government.

Mr. BAUCUS. I agree with that. As I read this amendment, it would apply to injuries that might occur due to lack of a helmet whether the motorcyclist was riding on the interstate highway or on private property.

I ask the Senator from Texas, there are a lot of wide open spaces in Texas, a lot of ranches. Would this apply to someone on a ranch in Texas who is out on his place trying to chase down a stray steer, not on any road? He falls off his bike on his own place and gets a head injury. Would this amendment apply to that person as well?

Mrs. HUTCHISON. The underlying——

Mr. BAUCUS. That is how I read it.

Mrs. HUTCHISON. I think it depends on what the State does. I think the State has a right to say that you need to wear a helmet on a highway but private property is exempt, or the State can also require it on private property. I doubt it would apply on private property. But that is a State right. And I would think that probably private property is exempt.

Mr. BAUCUS. Mr. President, I appreciate very much the Senator's responses. I think that, to be totally candid, this is an amendment which is well meaning and well intended. But has not been thought through enough. It opens up horrendous difficulties. No. 1, it is an impossible burden to place on the doctor, nurse, or provider to determine the portion of total injuries, which is often very difficult to do.

For instance, there may be a massive head injury and not much other injury to the body or maybe massive injuries to other parts of the body. It may be a head injury, and it may be a head injury that is causing the huge medical bills or it may not. It is very difficult for a doctor or nurse to determine and answer that question.

Second, Mr. President, it is the incredible paperwork that it will cause. This is a horrendously complex issue. I think the answer that the Senator from Texas said, ''It is up to the States,'' the way this is written, ''to the extent the injury is attributable to that person's failing to wear a motorcycle helmet,'' does not seem to give a lot of discretion to the States.

If it gives discretion to the States, the Senator is making our argument. This is States rights. Let us give discretion to the States and give discretion for what makes sense for them in their own States.

And to the private property point. As I read this amendment, it does not appear to give the State discretion to limit it to injury to persons without a helmet on public roads. As I read this amendment, it says, ''To the extent that the injury is attributable to that person's failure to wear a motorcycle helmet.'' And that is just another problem I see with this amendment. But if we are going to go down this road and limit Federal dollars, we might as well say, ''OK, States, why not? We are going to limit your Federal dollars if you don't pass handgun legislation outlawing the use of handguns.'' We all know that handguns cause some deaths in this country. Many emergency rooms in hospitals around this country see patients because of gunshot wounds. Does the Senator from Texas think we should apply the same logic to legislation of that kind?

What about passive smoke? Some people think that more people get cancer because they breathe passive smoke. Are we to say there should be no public funds to States if they did not pass legislation restricting public accommodations for passive smoke?

There is no end to this. I know this is a well-meaning amendment, but I think it is very complex. I think it would be wise for us, Mr. President, to summarily vote it down.

Mr. CHAFEE. Mr. President, there is an old technique in debating and arguing, if you will, to get into analogies. And pretty soon you are on the analogy instead of the basic point. In other words, suddenly we are on handguns here. There is no suggestion of handguns in this legislation. This is very simple.

And I commend the Senator from Texas and join her as a cosponsor, as has been pointed out. What she is saying is, if everybody wants the State to have all its rights, and they do not want to subscribe to a Federal law which says you have got to wear a motorcycle helmet, fine. That is the ultimate of States rights. What we voted on here today, they do not want any of those Federal people interfering.

What she is saying is, if we cannot have any control over what takes place, why should we have to pay the bill, any portion of the bill? And that is all it does. And you can get into all kinds of arguments about, ''Oh, who is going to decide?'' We have decisions made all the time in connection with health care. There is no problem there. The whole Medicare system is based upon a doctor making a decision, categorizing the extent of the illness. That is the way all the charges are done. This is not anything unique. It is very, very common. It is the same with Medicaid and the eligibility requirements for Medicaid. They are all there. And so I do not think we want to get bogged down.

If he is not wearing a helmet in a stationary position getting injured, does it count? Of course, it counts, because he ought to have been wearing a helmet under the law. If the State does not have that law, OK, fine. And there is no requirement that they have the law. And there is no requirement for the Federal Government to pay anything either.

So, Mr. President, I think this is—I thought we might get this amendment accepted. I thought every States righter would think this is great. And perhaps they will. Perhaps the distinguished Senators from Maine and Colorado will say, ''This is good. This is what we like.'' I look for a favorable response.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maine.

Ms. SNOWE. Thank you, Mr. President. Well, I do not blame the distinguished chairman for not wanting to get into the details of this amendment because once you do and understand the implications and the impact, it certainly would be unprecedented from a Federal standpoint.

I ask the Senator from Texas, why stop here? Why just stop with those who do not wear helmets? Why do we not deny individuals who are on Medicaid any medical care if they smoke and end up getting cancer? Why do we not deny people who are on Medicaid and do not engage in exercise, good diet, and do not get preventive medical checkups on an annual basis? Why do we not deny them medical care?

I mean, we can go on with endless possibilities. Why do we not deny those who ski and do not wear a helmet when they get injured? Why do we not deny them medical care? How about those who go rollerblading? If they do not wear a helmet, do we deny them medical care?

I think the Senator from Virginia raised a very important point. If somebody is riding a motorcycle and does not happen to be wearing a helmet because that person is abiding by the State law because they are not required to wear a helmet and they get broadsided by somebody who might be intoxicated or driving recklessly, that person who is driving recklessly or intoxicated would be eligible for Medicaid if they were in that category.

But the person who was a law-abiding citizen riding the motorcycle and gets broadsided by that individual who is driving recklessly would be denied medical care. I do not think that is the approach we want to adopt in Congress, sort of a two- and three-tiered system as to who is going to be denied or who is going to have access to medical care.

I think, and I said before, when the Senator from Rhode Island raised the issue about, well, this is going to add to our costs, I would ask the Senator, why not offer legislation that denies medical care for anything we think is going to affect health care costs to the Federal Government? Why are we stopping with just wearing helmets? I ask either the Senator from Texas or the Senator from Rhode Island that question. What about horseback riding? Rodeos?

Mr. CHAFEE. Can I give an answer to that?

Ms. SNOWE. I will be glad to yield for that purpose.

Mr. CHAFEE. The measure before us is a bill dealing with helmets, motorcycle helmets and seatbelts. That is the legislation. We do not have legislation before us dealing with skiers or with rollerbladers or with horseback riders.

So what the Senator from Maine has done, if her amendment is adopted—by the way, her amendment has not been adopted but what she is striving to do is to change the law. The current law says that a State must pass legislation to mandate the use of motorcycle helmets and seatbelts, except if they choose not to, then they suffer certain penalties. You are the one who brought up the legislation, not us.

Ms. SNOWE. This Senator, in hearing the Senator's answer to the question, then assumes the Senator supports denying all these categories for access to medical care on other pieces of legislation.

Mr. CHAFEE. No, I have not said anything to that effect.

Ms. SNOWE. That is the question I am asking because this is the kind of precedent that this amendment is establishing. What is the point?

Mr. CHAFEE. We will worry about precedents later on. The matter before us is motorcycle helmets.

Ms. SNOWE. So the Senator is not prepared——

Mr. CHAFEE. The Senator from Maine seeks to change that, and I am saying if you change that and are unsuccessful, why should we have to pay the bill?

Ms. SNOWE. I reclaim my time.

Mr. CHAFEE. We are not saying anything about denying hospital care or medical coverage. States can do that.

Ms. SNOWE. The States can do that at great cost, as the Senator well recognizes, and it was the Senator from Rhode Island who raised the question of medical costs. So let us discuss the issue of medical costs. I think it is a very relevant issue, and if it is right for motorcycle riders, then it should be right for everybody else in all of these categories, if we are talking about medical costs. It was the Senator who raised that issue.

Mr. CAMPBELL. Will the Senator yield? Is it the Senator's understanding, as it is mine, if this amendment is adopted, it then becomes amendable?

Ms. SNOWE. Absolutely.

Mr. CAMPBELL. What is to stop amending it saying anyone not wearing seatbelts is denied Medicaid or what is to stop amending it to say we do away with Medicaid altogether, or something of that nature?

Ms. SNOWE. That is correct. There would be endless possibilities in terms of what could be offered here to deny medical care to people in various categories, in various forms of personal behavior.

Mr. CAMPBELL. A further question. The Senator mentioned a drunken driver. Let me see if I have the scenario right and maybe the Senator can inform me.

Let us say there is a man driving down the road and is dead drunk and runs over 10 people. One he happens to run over is a motorcyclist parked by a stop sign who does not have a helmet on. The drivers are also injured in all these wrecks. As I understand the Hutchison amendment, the drunk that runs over the 10 people is going to get Medicaid, if he needs it, because he is injured, but the guy he ran over who was just sitting there will not because he does not have a helmet. Is that the way the Senator from Maine reads it, too?

Ms. SNOWE. That is the way I interpret this amendment.

Mr. CAMPBELL. In my opinion, this opens up Pandora's box of amendments we do not want to deal with. I have to tell you, as I understand the amendment of the Senator from Texas, it would deny Medicaid to people who are not wearing a helmet. I am going to prepare an amendment to hers, if it is adopted, that simply would require Medicaid for everybody who is riding with a helmet, if we are going to open up that Pandora's box. I yield the floor.

Ms. SNOWE. I thank the Senator for his comments, because I think his amendment would be very relevant under the rules of the Senate, and I think that it does, as the Senator from Colorado indicates with his amendment, open up all kinds of possibilities. This is unprecedented. We will start determining who will have access to medical care depending on their personal or recreational choices. That is the decision we will be making with this amendment.

I also suggest it is a strange form of States rights that almost does not pass the straight-face test.

Mr. CAMPBELL. Will the Senator further yield? I know the Senator from Maine has a pretty considerable background of law. I do not. Does the Senator also see this as a singling out of one class of people that could question the constitutionality of the amendment?

Ms. SNOWE. I say to the Senator, I am not a lawyer, but I certainly think that would have a great impact. It certainly would, in my opinion, in terms of the impact it would have on a specific category of recipients, potential recipients if they are eligible for any of our medical programs in the Federal Government.

Mr. CAMPBELL. I thank the Senator.

Ms. SNOWE. But I would say, I mentioned earlier that it would be a very strange form of States rights. We are saying to the States, ''You decide whether or not you want a helmet law.'' However, if somebody who is abiding by the fact that their State does not have a helmet law, so is not wearing a helmet and gets in an accident, regardless of whether or not it is his or her fault, they will be denied medical care; is that what we are really saying and want to say by adopting this amendment? I hope not, because I think you would all agree there are other areas that we could examine, as far as having a tremendous impact on medical care that adds to the cost year in and year out.

So I hope that we reject this amendment, because otherwise, as the Senator from Colorado, Senator CAMPBELL, has mentioned, there will be other amendments to address these very issues that come within the scope and relevance of the amendment that has been offered by the Senator from Texas, Senator HUTCHISON.

Mr. President, I ask for a recorded vote on the underlying amendment.

The PRESIDING OFFICER (Mr. GRAMS). The yeas and nays have already been ordered on the underlying first-degree amendment.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I have listened to this debate with interest, curiosity, and amazement, because what I hear is, ''If you do that, I'm going to punish you. If you do that amendment, I'm going to punish you with other amendments.''

This floor is wide open. You can make as many amendments as time will allow, and no one ought to be cowed or frightened by the prospect of another amendment that drags in some extraneous issue. We are now discussing whether or not these benefits apply universally and whether we will be able to take it away if someone stubs their toe in a bathtub.

The fact of the matter is that what these discussions are about did not get on the books willy-nilly because someone had it in for motorcycle riders or someone had it in for nonseatbelt users or someone had it in for speeders. These things developed because this was the safest way for our country to operate.

For those of us who are not regular motorcycle riders—I say regular. The first time I rode a motorcycle was when I was 17 years old, which was more than 20 years ago. I got a few pieces of gravel in my knee and my arm. My father talked to me, as only fathers and sons used to talk in those days; it was direct, no exceptions. He did not mind striking a blow for intelligence and maturity. I listened carefully. That was the end of my motorcycle career.

But the fact of the matter is that this is not a vendetta against motorcycle riders. What it is is a carefully thought out program to save us money—all of the American taxpayers. Motorcyclists, as a class, have more accidents and more costly accidents than do automobile riders. And, thusly, we are saying, hey, if you want us to make contributions, to pay into the pot for Medicaid, then please take some precautions. Even if you do not use a seatbelt in the car, you are protected by the frame and structure of the car, and now by airbags in almost every car. But you see it almost automatically—people buckle up. Machismo says: I do not buckle up; I ride free and easy. Well, that is up to the individual. I went through a story yesterday about my visit to a trauma center, which was an urban trauma center in a very poor, high-crime city, and the doctor in charge of the center said that the only thing that exceeds disastrous injuries from motorcycles are gunshot wounds. And we know that needs attention of and by itself.

But, in this case, what we are saying is that helmets ought to be used because it saves society money. Those who choose to run the risk, obviously, they are the ones who decide how much pain their families will have, how much anguish their loved ones will have; they are the ones who will decide that the risk is worth the ride. That is up to the individuals.

But I say, if you want to use Federal roads, then you ought to do the things that guarantee a modicum of safety. I think the Senator from Texas has come up with a brilliant idea, which says that if there are additional expenses involved as a result of your not taking appropriate precautions, then do not ask us, the Federal taxpayers, to pay the bill. That is standard in almost everything in life that we do. We are a Nation of laws. If you obey the laws and something happens, typically, it does not cost you anything, other than that which you pay in the normal array of taxes. But if you fail to obey the laws, if you want to jump out of an airplane in a parachute in the middle of a city and you cause all kinds of disruption, today you are going to pay a price for it. If you choose to violate the rules for safe passage in the mountains or in the oceans and you require service from the Federal Government, you pay for it. We, the citizens and taxpayers, are not required to do that.

So when we talk about what it is that centers this focus on helmets, we have to ask ourselves: What was the mission of the law as it was originally developed? The mission was not to punish States. The mission was not to add expense to the operations of State or local government. The mission was to save lives. And yesterday, we heard a fairly astounding statement, which when thought about carefully, suggested something. The suggestion was that if we slow the cars enough on our highways, we would save lots and lots of lives. But that was implied, and that was, therefore, a calculated risk. So that if we increase the speed limit a little bit more and a few more people die, as they say in France, ''c'est la vie''—that is life. That is the price you pay for more speed.

If one wanted to extend that argument, one could say that when this airline is scheduled to leave at 9:05 in the morning from Newark Airport, regardless of whether the skies are crowded or not, that plane takes off. It is the most ridiculous proposal anyone could conjure up. But it is the same as saying, well, sure, if you want to make things more efficient, you simply slow down the traffic, and the reverse of that—if you want to get someplace, then you may lose some lives. That argument hardly holds water when it comes to discussing a tragic result, whether it is a motorcycle rider or car rider or somebody falling down and getting hit by the car. It does not matter. The cost relates to lives. That is what we are discussing here—whether or not we are interested in saving lives, or whether the mission is to save the States dollars that do not want to comply with the rules.

We have had a vote and it was very clearly established that the majority here prefers that helmet laws be revoked. But I think that the proper response to that, having seen that overwhelming support, is that if more costs result from injuries that obtain from no helmets, and the Federal Government ought not to have to pay for that. If a State chooses to remove the requirements for helmets, then the State ought to pay for it. There ought not to be Medicaid for it. Private insurance is another thing. But there ought not to be public insurance for those States that violate sensible safety rules.

So I commend the Senator from Texas. I think she has an excellent idea. I rise as a cosponsor. I ask unanimous consent that I be included as a cosponsor of the amendment.

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

Mr. LAUTENBERG. Mr. President, I hope our colleagues will see the wisdom of her recommendation and that we will respond to what is an attempt to remove the safety precautions and replace it with a ''if you want to play, you pay'' kind of thing. I think that is quite normal and I think that is quite acceptable.

I will close by saying that I do not think this opens up a Pandora's box or other things. If we want to discuss other things, we are going to discuss them, regardless of the outcome of this amendment.

I hope that this amendment is agreed to.

Mrs. HUTCHISON. Mr. President, I thank the Senator from New Jersey. I appreciate the fact that he wants to be added as a cosponsor of this amendment, because I think it is a good, sound amendment. There was one technical answer that I wanted to give to the Senator from Montana in his request for information, and that is, the underlying helmet law applies to public roads.

Private property is really not an issue here. It is a matter of what we do on public roads.

I was a member of the National Transportation Safety Board at one time. I am very safety conscious. There is no question about that. I would like to encourage people to wear helmets, because I know that makes a difference in safety.

Safety belts make a huge difference in injuries in car accidents. I think that is so well settled that the Senate showed overwhelmingly yesterday that they did not want to lift the safety belt requirement.

The issue of helmets is a closer call. I think it really is a States right issue. Yet, I do hope that the States will think very carefully before they enact a law that would do away with the helmet law, because I do think it is a safety issue.

We do not want to hamper the rights of States in this instance. In fact, the American College of Emergency Physicians also believes this is a good amendment, because they see the effects of the differences in injuries when a person does not have a seatbelt or is not wearing a helmet while riding a motorcycle.

When people choose to ride motorcycles, as my wonderful friend the Senator from Colorado does, and we are proud that he does—when a person chooses to do that, that person is choosing to ride a vehicle that does not have the same protections as an automobile. A person should have that right.

I also think that there is an issue of, if you are going to do that unprotected, without a helmet, which we know will not only save lives but have far fewer injuries, I think that there is a responsibility there.

I just think that if a State decides that it is going to do away with the helmet law on public roads, that State should also take responsibility. This is not hampering States rights, but it is

saying that when you have the right and you choose to exercise that right, you also take the responsibility for that action, rather than having the Federal Government do it.

I think it is a very simple issue. I think it is an issue of States rights and State responsibilities. I am a cosponsor of the amendment that would not allow the Senate to send costs to the States. I think this is just a reversal of the same treatment.

If the States decide they do not want to go with a national policy that has been set, they have the right to do it, but they should pay for the consequences of exercising that right. Thank you.

Mr. CHAFEE. Mr. President, I wonder if the Senator from Colorado would respond to a question. We are trying to get a time agreement here and wind this up. I was wondering if the Senator would agree to a certain length of time?

Mr. CAMPBELL. No, not without my colleague. I would like to retain my time.

Mr. President, the Senator from New Jersey is still here. Senator LAUTENBERG talked about missions and our mission here.

I can say that missions change, because when the 55-mile-an-hour speed limit was implemented, it was not to save lives. It was to save gasoline—everyone knows that—because of the energy crunch. Somehow the mission changed as people began to look at their relationship to speed and safety. Missions change.

I would like to point out what I guess in my old-fashioned way is still considered to be the original mission of this body, and that was to uphold the Constitution. As I read the 10th amendment—not having the background and a lot of the legal skills as some of my colleagues do—the 10th amendment still says: ''The powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively, or to the people.''

There is nothing here that says we will mandate helmet laws. Nothing says we will be punitive and deduct money that they paid in their gas tax if they do not comply with some kind of an arbitrary rule we set back here. It does not say anything like that. It says we will not take away the States' rights to decide. That is the original mission. That is why we are here.

I think that the Hutchison amendment opens up a Pandora's box of any further amendments. If her amendment passes, it can be amended. Is somebody going to offer an amendment that, if they do not have a helmet, we do away with their food stamps? Or we do away with their farm subsidies? If they are not wearing a helmet, they will not receive money under the crime bill? The list can be endless. That is why this amendment is a killer amendment.

I urge my colleagues to vote against the amendment or to table it when that motion is offered. I yield the floor.

Ms. SNOWE. Thank you, Mr. President. I appreciate the comments made by the Senator from Colorado, because I think some of the questions that have been raised with respect to the amendment offered by the Senator from Texas really does embark the Senate on a different course with respect to, for example, the Medicaid Program.

The Medicaid program is a State-Federal Program. States design their programs within the Federal guidelines. Do not underestimate for a moment that we will not be pursuing a different and an unprecedented approach with respect to our medical programs. Once we decide that behavior is going to dictate whether or not an individual has access to medical care costs, we have opened, as the Senator from Colorado said, Pandora's box.

It will not stop here. I know the Senator from Rhode Island would not answer the question as to whether or not he would support other forms of social, personal, or recreational behavior as a determining factor for an individual eligible for our medical programs to receive those medical benefits.

I now would ask the Senator from Texas as to whether or not the Senator thinks that we should adopt a standard of behavior that will determine whether or not an individual should receive medical care in this country. I ask the Senator, does the Senator think that we should draw the line, for example, on what people do—whether they are skiing, skateboarding, rollerblading, smoking, improper diet, lack of exercise? We could go on in terms of the number of critical choices that are made as to how we will spend our money. And those people who are recipients of these programs could be denied based on this amendment. This is setting a precedent.

Does the Senator think that we should design our Medicaid or Medicare programs according to people's personal and social and recreational behavior?

Mrs. HUTCHISON. Mr. President, in a way, we do that in many instances. I think it is well settled that the U.S. Congress has the right to make laws as they affect our public roads and highways. If a State gets Federal funding, then we have certain laws that we must comply with.

There are safety laws in the way we construct highways. Insurance companies do have standards that are adopted by States, very often, on who can get insurance and who cannot. I think we have to take everything on a case-by-case basis.

I certainly think the Federal Government has the right and has made laws that are contingent upon receiving—Federal funds are contingent on those laws for States to receive those Federal funds. I sort of messed that up, but basically there are standards that have been set.

I do not think it is out of line at all. I think we have a Federal law. We have set a Federal standard. We are giving States the right to go against that standard, just like we did on the speed limit yesterday.

So I think we have just said if the States exercise the right, they take the responsibility.

Ms. SNOWE. Getting to specifics, I think it is important, because we are talking about medical costs.

We are saying if somebody does not wear a helmet and gets in an accident, regardless of whether or not it is that individual's fault, they will not have access to medical care if they happen to be eligible for a Federal program.

Now, we know that smoking is a cost. Does the Senator think that if somebody who happens to be on the Medicaid or Medicare Program, smoking, and happens to get lung cancer, do we deny that individual medical care?

Mrs. HUTCHISON. Mr. President, I think the Senator from Maine is asking for a personal opinion when, in fact, there very easily could be Medicaid standards that say if you smoke, you do not get treatment. Now, whether I think that we should have those standards or not is really irrelevant here.

Ms. SNOWE. No, I think it is relevant. I reclaim my time. I think it is relevant because the Senator's amendment is setting up drawing distinctions for the first time. I think it is very relevant.

Mrs. HUTCHISON. I think the Senator is doing what Senator CHAFEE mentioned earlier, and that is using a debate tactic. I think it is well within the rights of an insurance company or the Federal Government, under Medicaid, to set standards for when you will receive that care. Absolutely, it is within their rights.

Ms. SNOWE. We know its within their rights.

Mrs. HUTCHISON. We are saying in this instance we think the State should pick up the responsibility if they are going to exercise their right. It is very simple.

Ms. SNOWE. This is not a hypothetical amendment. It is reality. That is, what we are talking about is a very real possibility that will open a number of doors in terms of who will be eligible and who will be ineligible for medical care. We know the Federal Government has every right in the world and every prerogative to design the programs the way we see fit. But that is not the point.

Mrs. HUTCHISON. Well, it is the point. That is absolutely the point.

Ms. SNOWE. Let me have—it is my time.

The point is in terms of what is right. Now we are saying that, because somebody happens to be abiding by their State law—and my colleague calls it a States rights issue, and I find that a very interesting interpretation of States rights because it is no different than what we are trying to fight over the helmet law or even the seatbelt law. We are saying let the States determine it but do not penalize us with transportation funds.

So now the Senator's amendment is penalizing States in a different way. She is saying we are not going to give you medical care costs if somebody gets in an accident because you are not adopting that amendment. That is the bottom line of her amendment. Because now she is giving the States the choice, if you do not pass that helmet law, and if something happens to an individual abiding by the State law that does not require them to wear a helmet, they will not have access to medical costs. The Senator knows the State is going to have to pick up the tab, so it is an unfunded mandate and she is a cosponsor of the unfunded mandate bill—but this is an unfunded mandate.

The hospitals are not going to deny that care to that individual. The Senator would not suggest a 16- or 17-year-old on a motorcycle who gets in an accident is going to be denied medical care because they were abiding by the law of their State?

Mrs. HUTCHISON. Will the Senator yield?

Ms. SNOWE. I hope that is not the approach we are taking with this legislation because it opens up, I think, very incredible questions about the propriety of procedures in a policy from the Federal prospective.

Mrs. HUTCHISON addressed the Chair.

Ms. SNOWE. It is my time.

Mrs. HUTCHISON. I ask if the Senator will yield?

Ms. SNOWE. I will be glad to yield.

Mrs. HUTCHISON. I think the Senator is raising a red herring here because the issue is, if we are going to provide the service, we have the right to set the standards. If we are going to say the States can exercise their rights, we have a right to also give them the responsibility.

I am glad we are going toward eliminating unfunded mandates to the States, but I think if we are going to give States the rights to do these things, they are going to have to pick up the responsibility, coming the other way, just as we are giving them the right not to have unfunded mandates from the Federal Government.

Ms. SNOWE. To answer the Senator's statement, yes, we do have the right. But the question is, what is right? I do not think the Senator's approach is the right approach. I do not think it is appropriate for us to begin to determine in a number of different areas how we are going to provide that medical care because we decide on what is appropriate and what is inappropriate.

If we are going to do that, then I think it is only fair to look at a whole host of areas that have an impact on the cost to the Federal Government of medical care. That is what this amendment is suggesting. That is the door it is opening.

It is everybody's right to interpret how this amendment is going to be applied. It is not a hypothetical situation. It is very real. While the Senator might think she is granting States the right to make those decisions, it is not any different than what we are trying to fight with this legislation. We are saying to the States, you ought to make those decisions. We have decided in our wisdom that something should be decided rightfully by the States. That was the vote we just had on my amendment, to allow the States to make those decisions, not to penalize them through transportation funds. But the Senator is coming through the back door and saying, all right, if you do not adopt this amendment then you are going to be denied medical care cost reimbursements by the Federal Government.

Yes, it is definitely going to be an unfunded mandate, but I think it raises some other very serious questions about exactly how far we are willing to go to begin to make those distinctions on medical care costs and who is going to have access.

Mr. CAMPBELL. Will the Senator yield?

Ms. SNOWE. I will be glad to yield to the Senator from Colorado.

Mr. CAMPBELL. The Senator from Texas referred several times to Federal funding.

Is it the belief of the Senator from Maine, as it is mine, that there is no funding here, that this money that is here comes from the taxpayers?

Ms. SNOWE. That is absolutely correct. The Senator raised that earlier in terms of the transportation funds.

Mr. CAMPBELL. That was the point I was going to make. Is it my colleague's belief, as it is mine, that people who pay into the highway users trust fund under the gasoline tax, whether it is Texas or Maine or Colorado or wherever, if they have the right to get that money back unfettered? They paid it in. Do they have a right to get it back without us putting a whole bunch of strings attached to it before they get their money back?

Ms. SNOWE. I say to the Senator, he is exactly correct. My colleague is exactly right. Providing strings and requirements to the money before it is returned to the States or otherwise, they do not really get it because they cannot use it for the purposes they require. It is only the purpose which the Federal Government, the Congress, requires, but not for what the States need.

Mr. CAMPBELL. I thank the Senator.

Ms. SNOWE. I hope, as I conclude my own remarks with respect to this issue, that we reject this amendment because, while some would say this is a red herring, it is not. We all too often find that we have amendments that have real implications. This certainly is one of them.

We are saying on the one hand the States have the right to make decisions about their helmet laws, but on the other hand, if you do and it is not the right decision, we are not going to allow eligible recipients to have access to medical care if they abide by that law. It does not stop there.

Mr. LAUTENBERG addressed the Chair.

Ms. SNOWE. Does the Senator have a problem?

Mr. LAUTENBERG. I was appealing to the Chair for time. I thought the Senator was finished.

Ms. SNOWE. The fact of the matter is, we are going to be denying individuals medical care under this amendment. But it will not stop here. It will go on into other areas. As the Senator from Colorado has indicated, he will offer an amendment. There will be other amendments, there will be other legislation, and we will be continuing to draw those lines in terms of who will be able to get medical care.

It can go on and on, because there are a number of behaviors that people engage in that have implications to our medical costs. I cannot imagine we are saying now, if somebody is skiing or skateboarding or rollerblading, playing touch football, and has a head injury and is not wearing a helmet, and may be on Medicaid—that has implications, too.

But what we are doing is isolating a certain group and imposing a punishment on them because they are abiding by State law. So I hope we will reject the amendment that has been offered by the Senator from Texas, Senator HUTCHISON.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank the occupant of the chair for giving me recognition.

I listened carefully to the Senators who are opposed to this amendment and I am struck by the response to what I think is a very carefully thought out, very specific amendment that addresses a problem that is going to be created.

What I heard was that the 10th amendment says that powers not relegated to the Federal Government are relegated to the States. What I heard is that, if this happens, ''I promise you I will have amendment after amendment after amendment'' that will kind of ''make you pay'' for supporting her amendment. I heard that this opens Pandora's box, that we are going to be discussing all kinds of things that relate to taking away people's benefits. I remind our distinguished friends that it has been the tradition in promoting safety in this country that you get incentives or that you get penalized by not complying because we are, after all, a Federal Nation.

Yes. We can debate how much of a particular issue is a State issue exclusively or the Federal Government issue exclusively. But the fact is that we are an inextricably linked society, and that we have transportation programs that transcend State borders one after the other.

I cannot tell how many requests I have gotten from the State of Maine over the years when I was chairman of

the Transportation Subcommittee to have Amtrak extend to Maine to get this little bridge fixed up to there, to get that little road fixed up there. Never was it said in these requests, ''Now I know that we are asking for more than we should based on what we paid into the fund.'' The request was a legitimate one to the Federal Government.

Colorado—I know Colorado well. It is a State I love and have visited many times. I have recommended funding for Colorado highways, viaducts—the 23d Street viaduct in Denver, CO, because it was recommended. I recommended supporting the funding there. And it goes on place after place after place.

So this sudden shock that suggests that, ''Well, you want the States to pay for their miscreants? You want States to pay for their deeds that they commit that cost the Government money?'' Yes. Of course. Everybody pays their fair share. That is the way the game gets played. We are not talking about taking away food stamps or farm subsidies. We are talking about a very specific thing related to a very specific group which has a high incidence of injury and death relative to other types of transportation—very high incidence, often long-term illness, lifetime in many cases, for whom we pay extraordinarily high costs.

What the amendment of the Senator from Texas says is, if you do not take the appropriate precautions, that is a right that apparently is yours. But you have no right to assess the rest of the country bills for decisions that you make that cost us money. We have all kinds of laws regulating behavior.

I am surprised that we are debating this. We have laws against drinking and driving. We have laws against driving without a license. We have all kinds of laws that say this is the way society ought to conduct itself. We are, I remind my friends, a nation of laws. That means that there is a structure of conduct of behavior, to use the term of the Senator from Maine. There is a structure of behavior that you have to have in a society that has 250 million people, many with different interests, different backgrounds, different ideas about how we ought to conduct ourselves.

So we are a nation of laws. As a consequence of that we are going to be subject to some laws that we do not like. We are going to be subject to some restrictions that we may disagree with. But it is an essential factor in a complex society, in a complex world.

So we can disagree on a particular thing or another without suggesting that the sky is falling down, and that, if you do one thing, it is going to hurt everything else. Each one of these subjects is fair game. If someone wants to propose an amendment that would have penalties for not using sensible safety rules within a State, they have the right to do it. That is the nature of things. But let not the Senator from Texas be cowed by the threat that perhaps there will be other amendments to follow.

We are here. We are here to do what we have to do in the interest of this highway bill. And if these amendments affect that, then I think we just have to proceed ahead.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

ORDER OF PROCEDURE

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate go into morning business not to exceed a minute and a half, and then return to the bill.

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

SENATOR WARNER'S VOTE ON CLOTURE

Mr. WARNER. Mr. President, at the present time my office is being overwhelmed with pressing calls with respect to the scheduled cloture vote tomorrow.

I wish to announce at this time that my vote tomorrow will be consistent with my vote today which is in opposition to cloture.

I thank the Chair.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The Senate continued with the consideration of the bill.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I would like to take a couple of minutes to finish and answer just a couple of things that were said.

First, in relation to what the Senator from New Jersey said, I do not think that we need to talk about what other areas might arise from some innovative approach to this amendment. This amendment is very simple and very straightforward. We are not talking about penalizing the States. We are talking about letting them do as they wish, do something that could add to the medical costs because we know this is a safety issue, and if they decide to exercise that right that they take the responsibility for it.

I think it is pretty simple. I think that Members are going to start seeing as we go down the road pursuing the unfunded mandates theory, and as we are turning things back to the States, the States are going to take responsibility for what they do. That is part of returning the power to the States, which I think is right thing to do.

So I support the underlying amendment. This is not a gutting amendment at all. It is an amendment that I think is the correct thing—that, if the States decide that they are going to opt out from the Federal helmet laws, they take the responsibility for doing that. I think it is very simple and straightforward.

I urge the adoption of the amendment.

Thank you, Mr. President.

I yield the floor.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Thank you, Mr. President.

Just very briefly in response to what the Senator from New Jersey was talking about, that we have laws with respect to the drunk driving. The interesting part is how this amendment would not have an impact on somebody who is drunk while driving, or reckless driving, or somebody who overdoses on drugs, and all of these categories. They happen to be eligible for Medicaid, and Medicare. They still will get medical care. But a motorcycle rider who may not be wearing a helmet, abiding by State laws, gets in an accident, may not be any fault of their own, but would be denied medical care because they were not wearing a helmet even though they were abiding by that State's law, I do not think that is the approach that we should adopt.

I urge Members of the Senate to reject the amendment offered by Senator HUTCHISON.

Ms. SNOWE. Mr. President, I make the motion to table the amendment.

The PRESIDING OFFICER. The question is on the motion.

Ms. SNOWE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine to lay on the table the amendment of the Senator from Texas. On this motion, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Arizona [Mr. MCCAIN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 275 Leg.]

YEAS—60

Abraham	D'Amato	Inhofe
Ashcroft	Daschle	Jeffords
Baucus	DeWine	Kassebaum
Bennett	Dole	Kempthorne
Bingaman	Domenici	Kohl
Boxer	Dorgan	Kyl
Bradley	Exon	Leahy
Brown	Feingold	Lott
Burns	Frist	Lugar
Campbell	Graham	McConnell
Coats	Grams	Moseley-Braun
Cochran	Grassley	Murkowski
Cohen	Gregg	Nickles
Conrad	Hatch	Nunn
Coverdell	Hatfield	Packwood
Craig	Helms	Pressler

Roth	Smith	Thompson
Santorum	Snowe	Thurmond
Shelby	Stevens	Warner
Simpson	Thomas	Wellstone

NAYS—39

Akaka	Gorton	Lieberman
Biden	Gramm	Mack
Bond	Harkin	Mikulski
Breaux	Heflin	Moynihan
Bryan	Hollings	Murray
Bumpers	Hutchison	Pell
Byrd	Inouye	Pryor
Chafee	Johnston	Reid
Dodd	Kennedy	Robb
Faircloth	Kerrey	Rockefeller
Feinstein	Kerry	Sarbanes
Ford	Lautenberg	Simon
Glenn	Levin	Specter

NOT VOTING—1 McCain

So, the motion to lay on the table the amendment (No. 1443) was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I yield to the Senator from Maine.

Ms. SNOWE. I thank the majority leader. I am prepared to have a voice vote on the underlying amendment. I ask unanimous consent to vitiate the yeas and nays.

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

The question is on agreeing to the amendment of the Senator from Maine.

The amendment (No. 1442) was agreed to.

Ms. SNOWE. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1437

Mrs. MURRAY. Mr. President, I was necessarily absent last evening, attending the high school graduation of my son, Randy.

I would have voted against the Smith amendment lifting penalties against States for not having helmet or seat belt laws.

This issue for me, comes down to the simple question of safety. An issue that is bipartisan and noncontroversial. In fact, a recent comprehensive consume survey shows that 82 percent of Americans support a strong Federal role in safety.

How can we then support a step backward against the giant gains we have made in highway accident and injury prevention. According to the National Highway Traffic Safety Administration, from 1983 to 1993, safety belts saved more than 40,000 lives and prevented $88 billion in economic losses by reducing health care costs and productivity losses. In 1993 alone, motorcycle helmet laws in 25 States saved 515 lives, prevented 2,035 moderate to serious injuries, and saved $513 million in economic losses.

As a former State senator, I understand State's rights, but let us legislate on the side of safety and human life.

Mr. JEFFORDS. Mr. President, I would like to engage my colleague from Rhode Island in a colloquy on Federal oversight of the design of projects in Vermont that are on non-interstate portions of the National Highway System [NHS].

First, Mr. President, I would like to acknowledge the hard work that committee staff, my staff, the U.S. Department of Transportation and the Vermont Agency of Transportation have put in on the NHS-design issue. All the parties have acknowledged that Vermont's mountainous terrain and historic villages present a unique challenge when designing highway and rural road improvements. It has been the goal of the parties to come up with solutions that do not adversely affect Vermont's small communities and rural landscape.

Mr. President, the 1991 Intermodal Surface Transportation Efficiency Act placed control for the design of highway improvements off the NHS in the hands of the individual States. It has been our experience in Vermont that this has improved communications with local citizens on highway projects and lowered project costs. it is the Vermont Agency of Transportation's desire to assume primary responsibility for the management of its transportation system, including those non-interstate roads proposed for the National Highway System. Representatives of the U.S. Department of Transportation have assured Vermont transportation officials that such control and flexibility can be provided for the non-interstate NHS roads through existing provisions of the United States Code, title 23.

Mr. CHAFEE. The Senator from Vermont is correct.

Mr. JEFFORDS. Vermont has been assured by the U.S. Department of Transportation that under section 117, United States Code title 23, the Vermont Agency of Transportation can be granted the authority to provide design exceptions at its discretion on non-interstate NHS roads. Further, Vermont has been assured that it may determine the scope of non-interstate NHS projects. These projects include simple road and bridge resurfacing, while more comprehensive improvements undergo the necessary planning and design process.

Mr. CHAFEE. The Senator's understanding is correct.

Mr. JEFFORDS. To ensure that a common understanding exists on the above matters between the U.S. Department of Transportation and Vermont transportation officials, Vermont has been assured by the Federal Highway Administration's Deputy Administrator Jane Garvey and other high-level Federal highway officials that she and these officials will visit Vermont in the near future to discuss these matters. Following this visit and drawing on the provisions of section 117 of the United States Code, title 23, Vermont has been assured that an agreement will be executed that will grant Vermont the authority required to assume primary responsibility for the management of its transpiration system, including the non-interstate roads on the NHS.

Mr. CHAFEE. The Senator accurately states my understanding of the intent of the agreement between the U.S. Department of Transportation and the Vermont Agency of Transportation.

Mr. JEFFORDS. I thank the Senator from Rhode Island.

CHANGE OF VOTE

Mr. DOMENICI. Mr. President, on rollcall vote 271, I voted ''yes.'' It was my intention to vote ''no.'' Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome.

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

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Virginia.

Mr. WARNER. Mr. President while we have the two leaders on the floor, I wonder if we might explore the possibility of finishing the pending matter tonight.

I wish to advise the Senate there are 26 amendments pending. Of that number of amendments, it is my assessment that only four will require rollcall votes, and the balance can be resolved, hopefully, by the managers.

I see present on the floor a number of the Senators associated with the amendments that could require rollcall votes. If I might identify the Members: Senator ROTH has an amendment; the distinguished former leader, Senator BYRD; and the Senator from North Dakota, Mr. DORGAN. Those are the amendments that I feel will require votes.

If we could get time agreements and finish those amendments, I think we can work out the balance of the amendments. This bill would be ready for final passage late tonight, or whenever the leaders desire tomorrow.

Mr. DOLE. I have not had a chance to discuss this with my colleague, Senator DASCHLE, the Democratic leader, but I hope we can finish it this evening if we can obtain time agreements. Four amendments would not take that much time. We had a short night last night because of two or three very special events which presented conflicts for many of our colleagues.

I would certainly be willing, and I do not think the Senator from South Dakota has any objection.

Mr. DASCHLE. I have no objection, and I would like to continue to work.

I know a number of Senators are prepared to offer their amendments. They are here on the floor. I think we ought to proceed.

Mr. WARNER. Mr. President, I will await the return of my comanager, the Senator from Montana. But seeing three of the proponents on the floor, I ask the Senator from Delaware if a period of an hour and a half equally divided would be suitable for the disposition of the amendment, together with Senator BAUCUS; is that correct?

Mr. ROTH. That would be most satisfactory.

Mr. WARNER. I thank the Senator for his cooperation. I now ask the distinguished Senator from West Virginia, with respect to his amendment if an hour equally divided would meet his requirements?

Mr. BYRD. Mr. President, an hour equally divided would be agreeable to me. However, if I am going to be 9 o'clock tonight calling up my amendment, having an opportunity—I have been here all day and I indicated yesterday I would be ready to call up my amendment the first thing today. As I understand it, there is a kind of lineup.

I know what my rights are. Under the rules I can get recognition to call up my amendment any time. I want to cooperate with the managers and therefore I have no objection to one or two others going first, but I do not want to have an agreement on my amendment and then call it up here at 9 o'clock tonight.

Mr. WARNER. Mr. President, we will work with the sponsors of the amendments as to the sequence and timing, either today or should the leadership grant us time in the morning, to do it then. But I thank the Senator for indicating the time within which presumably the Senator from Montana and I might be able to get a time agreement—just as to the time of the amendments. The sequencing would be left open.

Mr. BYRD. Yes. I do not like sequencing, generally speaking. I like to follow the rules of the Senate.

Mr. WARNER. Fine.

Mr. BYRD. But may I say to the Senator, if we are not going to finish it today, if we are going to go over to tomorrow, I would prefer to go over to tomorrow now that it is 4:30 in the afternoon.

Mr. WARNER. Mr. President, that is a matter the leadership will have to decide.

I thank the Senator from West Virginia.

I now ask the Senator from North Dakota with respect to his amendment, the amount of time required to be equally divided?

Mr. DORGAN. What amount of time?

Mr. WARNER. Yes.

Mr. DORGAN. I would agree, as I previously discussed with the Senator from Virginia, to 40 minutes, 20 minutes on each side.

If the Senator from Virginia would be inclined to accept my amendment I would do it in 5 minutes.

Mr. WARNER. At this time, I say to my good friend, Mr. President, I will look at it but I am not able to assure him.

If I could put down 40 minutes equally divided for the amendment sponsored by the Senator from North Dakota?

Mr. DORGAN. Fine.

Mr. WARNER. It gives the managers some area in which they can work.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks time?

The Senator from Delaware.

AMENDMENT NO. 1444

(Purpose: To permit States to use Federal highway funds for capital improvements to, and operating support for, intercity passenger rail service)

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] for himself, Mr. BIDEN, Mrs. BOXER, Mr. CHAFEE, Mr. COHEN, Mr. JEFFORDS, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. MOYNIHAN, Mrs. MURRAY, Mr. SPECTER, Mr. PELL, Ms. SNOWE, and Mr. D'AMATO proposes an amendment numbered 1444.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . INTERCITY RAIL INFRASTRUCTURE INVESTMENT.

(a) INTERSTATE RAIL COMPACTS.—

(1) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

(A) retaining an existing service or commencing a new service;

(B) assembling rights-of-way; and

(B) performing capital improvements, including—

(i) the construction and rehabilitation of maintenance facilities;

(ii) the purchase of locomotives; and

(iii) operational improvements, including communications, signals, and other systems.

(2) FINANCING.—An interstate compact established by States under paragraph (1) may provide that, in order to carry out the compact, the States may—

(A) accept contributions from a unit of State or local government or a person;

(B) use any Federal or State funds made available for intercity passenger rail service (except funds made available for the National Railroad Passenger Corporation);

(C) on such terms and conditions as the State consider advisable—

(i) borrow money on a short-term basis and issue notes for the borrowing; and

(ii) issue bonds; and

(D) obtain financing by other means permitted under Federal or State law.

(b) ELIGIBILITY OF PASSENGER RAIL AS SURFACE TRANSPORTATION PROGRAM PROJECT.—Section 133(b) of title 23, United States Code, is amended—

(1) in paragraph (1), by inserting '', railroads,'' after ''highways)''; and

(2) in paragraph (2)—

(A) by inserting '', all eligible activities under section 5311 of title 49, United States Code,'' before ''and publicly owned'';

(B) by inserting ''or rail passenger'' after ''intercity bus''; and

(C) by inserting before the period at the end the following: '', including terminals and facilities owned by the National Railroad Passenger Corporation''.

(3) in paragraph 6(a), by inserting '', and for passenger rail services,'' after ''programs''.

(c) ELIGIBILITY OF PASSENGER RAIL UNDER CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) if the project or program will have air quality benefits through construction of and operational improvements for intercity passenger rail facilities, operation of intercity passenger rail trains, and acquisition of rolling stock for intercity passenger rail service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operating support.''.

Mr. ROTH. Mr. President, the amendment which I am offering today on behalf of myself and Senator BIDEN, as well as several other Members of the Senate, has a very simple and important purpose and that is to give States the much needed flexibility to use their CMAQ and STP funds for Amtrak passenger rail service.

Since late last year, Amtrak has begun a much needed restructuring. The restructuring has required substantial participation by State governments in determining which rail lines will stay in service. While States currently have wide authority in allocating Federal transportation dollars—whether it be on pedestrian walkways, bikeways, buses, light rail, highway, and other intermodal and commuter-based transit needs, a damaging double standard exists which, by law, prevents States from utilizing these funds to improve, expand or simply maintain vital Amtrak service if they so choose.

My legislation would eliminate this double standard and give States more flexibility in the way they use their transportation dollars.

My amendment addresses a number of realistic and sensible ways States can be given this flexibility.

Under my proposal, States would be allowed to use funds available in the Congestion Mitigation and Air Quality Program (CMAQ] for passenger rail service.

This program, created in the Intermodal Surface Transportation and Efficiency Act, provides an incentive to focus on transportation alternatives which reduce traffic congestion, improve air quality and lower fuel consumption.

Amtrak passenger rail service clearly meets these criteria, potentially better than any other transportation alternative currently available. My amendment would allow CMAQ funds for passenger rail service.

Second, States would be allowed to use their Surface Transportation Program [STP] dollars for Amtrak passenger rail service. STP gives States and localities unprecedented flexibility in moving Federal dollars between modes. Currently, States are using these funds for carpool projects, parking facilities, and bicycle and pedestrian facilities.

My amendment simply ensures that this flexibility is extended to States to use for Amtrak passenger rail service.

In addition to these provisions, Mr. President, my amendment would permit States to enter into interstate compacts in support of Amtrak services. We know that it requires coordinated efforts among a number of States to make a regional passenger rail route possible. Those States could use Federal funds from the programs I just listed, or make use of bonding authority under the compact to support intercity rail services.

Mr. President, the need for flexibility is clear. I have here, a letter signed by Governor Dean of Vermont, Governor Thompson of Wisconsin, Governor Engler of Michigan, and Tom Carper, Governor of my State of Delaware, both Democrats and Republicans. This letter supports my amendment.

Let me read this letter. This letter went to Senator BAUCUS and to Senator CHAFEE, the chairman of the committee.

This is from the four Governors, and it says:

As you proceed with consideration of S.440, we want you to be aware our strong support for the right of states to use their federal transportation funds for rail passenger service. The amendment being offered by Senators Roth and Biden has our full and enthusiastic support.

Under present law, we are not able to make use of our federal highway or transit funds for rail passenger service. This has posed a number of difficulties for our state in forming partnerships with Amtrak for these purposes, even when investments in rail passenger service would produce clear public benefits and improve the service quality of other modes of transportation.

Adoption of the proposed amendment will provide states with the ability to decide what transportation system best meets their needs and to allocate their federal funds accordingly. In this time of severe budget constraints at all levels of government, it is essential that we empower state and local officials to make the best use of scarce federal resources. This is clearly a states' rights issue.

We view this adoption of the Roth/Biden provision as part of S.440 as an extremely positive step in the direction of achieving a higher level of state choice and a more balanced transportation system. We look forward to working with you to ensure this result.

As I said, this was signed by Governor Dean of Vermont, Governor Thompson of Wisconsin, Governor Engler of Michigan, and Governor Carper of Delaware.

These Governors have already committed their own States' general revenues to support intercity rail routes, at the same time they have surpluses in Federal transportation programs that they are prohibited from using to maintain Amtrak services. These Governors have confirmed the need for more flexibility.

California, Illinois, Michigan, Missouri, Wisconsin, Pennsylvania, and Vermont have also confirmed the importance of Amtrak.

Mr. President, Congress has recognized the need for States to have flexibility with Federal subsidies in important local transportation decisions. In fact, the increased flexibility provided by this amendment is consistent with the major goals of the bill before us today. In an important sense, this amendment simply removes an inconsistency in earlier legislation.

When ISTEA was enacted in 1991, a major premise of that legislation was to remove the unnecessary hurdles in the way of a national transportation policy.

Fundamental to that landmark legislation was the realization that all the components of our transportation system must be allowed to work together, each making its own appropriate contribution.

ISTEA provided unprecedented flexibility to States and localities to make use of Federal transportation funds to provide the mix most appropriate for local transportation needs.

Adoption of my amendment would extend the irrefutable logic of that approach to passenger rail service.

Mr. President, this legislation calls for no new spending. It does not change Federal transportation allocation formulas, nor does it mandate that States spend their Federal transportation dollars on passenger rail service.

As I have said, it simply gives States the ability to spend Federal CMAQ and STP money as they see fit and in ways which have been repeatedly found to be good for them and good for the country.

Mr. President, I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I rise to speak to this amendment.

Mr. President, my colleague from Delaware and I are often suspect when it comes to Amtrak since we are such daily users. So I want a full disclosure to acknowledge that, if I had my way, we would be dealing with Amtrak in a way far beyond what this amendment does.

I think we should be setting up a trust fund for Amtrak. I think we should be dealing with it very differently than we are. But, Mr. President, the amendment that the Senator from Delaware, Senator ROTH, and I have is much more modest in its approach, and it is not designed to be a long-term solution for Amtrak's financial problems. They are going to have to come from the internal restructuring which Senator ROTH referred to that is already under way and from a clearly defined, in my view, dedicated source of funds to support its capital needs the way we provide capital for highways and airports in other systems.

I would just like to note for the record that we subsidize airports and highways on a per passenger basis considerably more than we do Amtrak. It is not even close. And the single most environmentally sound thing we could do and, from a safety standpoint, the single most significant thing we can do is have a real passenger rail service system in the United States. I might add there is not one single passenger rail service system in the world that is self-sufficient; not one in the whole world.

But that is another argument. We are not here today to correct the problems of Amtrak. We are here to try to deal with an inequity that exists that in effect prejudices Amtrak in a way no other means of transportation, including pedestrian paths and bike paths, are prejudiced.

I believe there has been some misunderstanding about the proposal which Senator ROTH and I have, and possibly we will see some of that in the debate today.

But let me begin by briefly explaining what this amendment will not do. It will not spend a dime of additional money. It will not spend a dime of additional money, State or Federal. It will not require any State in the Nation to spend any funds on Amtrak.

There is no mandate, no requirement. It will not change any formula for the allocating of transportation funds among the States. It will not affect the amount of annual Federal transportation funds that States now receive. It will not do any of those things.

So that your State, for Senators who are listening and the staffs who are listening, will not in any way be affected in terms of the amount of money, percentage of money, source of money that is now received.

But let us look at what it will do.

Mr. President, the bottom line is that this amendment simply permits the States to use funds they already qualify for in a way that is not currently permitted.

Under this proposal, States will be given the discretion to include intercity rail service, which is another way of saying Amtrak, among the transportation options available to their citizens. Current restrictions on the use of Federal transportation funds will be removed, and Governors around this country will be able to use those funds that they now get under the present formula as they see fit, including supporting intercity rail service provided by Amtrak if that is what they choose to do.

In very congested areas, particularly in the urban corridors along the east and west coasts, but also in other areas, adding some more highways is simply not an economic option. For example, in our State of Delaware, were Amtrak to shut down, the idea of building another I–95 through our State—our State is not wide enough to take another I–95. We cannot handle another system that is that large in terms of our air quality, in terms of our land resources available to us, and in every other way. It makes no sense.

By the way, I might add, I will put in the RECORD at a later time what the effect on my State and the Northeast corridor would be if there were no Amtrak and what the effect would be on

the airports of the east coast were there no Amtrak.

The fact is that this option is not only an option that should be made available to States with a great deal of congestion—keeping an Amtrak route open on an existing rail right of way is much more cost effective, safer and cleaner than buying land and constructing even one more lane on a major interstate highway. The interstate highway is already there. It is called the right of way that Amtrak has. There is already a rail bed. And what is happening now because of cost containment, we are cutting the number of trains we put on that rail bed. We are cutting them, reducing the number of people who can use that mode of transportation and putting them on highways or in planes, both of which cause additional congestion.

The increased flexibility provided by this amendment is fully consistent with the major goal of the National Highway System bill before us today and with so-called ISTEA, the landmark legislation that calls for a National Highway System designation.

Mr. President, the need for this enhanced State flexibility is clear. In recent months, under the leadership of Amtrak's president, Tom Downs, Amtrak has undertaken, as Senator ROTH has said, a major downsizing and restructuring to reduce and eventually eliminate its dependence on Federal operating subsidies.

Now, again, I wish to make it clear I do not think it should have to do as much as it is doing. I think it is counterproductive. But the fact is they are given a mandate. They are told, by the way, this all ends in a year certain. And Downs has gone out there and done what he has had to do. He has fired thousands of employees. He has cut the number of trains going into various States. He has reduced costs.

This is a mandate set out in both the House and Senate budget resolutions, which, I might add, I voted against, but it is there. That is likely to be the law.

The first stage of this progress made by Mr. Downs was announced last December with major route eliminations taking effect in April. And President Downs heard from an awful lot of folks on this floor saying: Why did you cut the train out of my State? Why did you cut it out of my State? Why do I not have this access? And the answer is because we decided that we are not going to have the national rail transportation system that we should have. We are cutting the budget.

Well, he did his part. He has cut and eliminated routes. Frequency reductions on selected routes throughout the country will be completed by this coming October. That is a euphemism for saying if you have three trains coming through your State now, you may have one coming through your State by October. These steps have reduced by 20 percent the route miles previously served by Amtrak. And as a result many commuters across the country find themselves with little or none of the Amtrak service that they once had depended upon. All of a sudden Governors who thought this was a good idea and even some of my colleagues in the Senate who thought it was a good idea are realizing how important Amtrak was to them. The Governors of those States where these cuts took place know that intercity rail is an important option for small towns without air service as well as for congested commuter corridors. They know that intercity rail supports commerce as an important component of the modern national transportation system and in some States particularly their tourism.

That is why States are seeking ways to use the funds, the CMAQ funds referred to earlier, to meet congestion mitigation and air quality goals, to support Amtrak rather than to deal with having to build more highways. Under current law, that is not an option. Under current law, they are not allowed to do that.

I have here, Mr. President, a letter from Governors Dean of Vermont, Thompson of Wisconsin, Engler of Michigan, and Carper of Delaware, which I will not repeat. It was already put into the RECORD by my colleague from Delaware.

Mr. President, among the authors of this letter are Governors who have already committed their own State's general revenue to support intercity rail routes at the same time they have surpluses in Federal transportation programs that are prohibited because they are prohibited from using Amtrak services.

In other words, their citizens pay into the highway trust fund x amount of dollars. They get them back. Because they do not want to build more highways, they cannot use them so they have to send them back to the trust fund, not to the taxpayers, not to those folks—back into the trust fund. And they say, why can we not use that money to meet the needs in our State, the transportation needs and the air quality needs, et cetera?

States that have confirmed the importance of Amtrak runs include California, Illinois, Michigan, Missouri, Wisconsin, Pennsylvania, Vermont—the list goes on.

Mr. President, virtually every advanced industrial nation in the world has found intercity passenger rail service to be essential. All of our major competitors and trading partners provide some level of financial support to assure that the benefits of passenger rail, which include less congestion and less construction of highways and airports, are available to them.

There are tourists here listening to this today from other countries. One of the often heard marvels is, well, I was in Paris; I was in Tokyo; I got in a spotless train that went 190—in one case 300—miles per hour and it got me from A to B, and it was economical, and it could, and it worked, et cetera. Why does the greatest nation in the world not have that?

Well, the greatest nation in the world does not have that because we have devalued intercity rail service.

Our amendment today does not solve the overall problem, but it does provide those Governors that I mentioned and others the means, if they choose, to support Amtrak routes important to their States. With the tools provided by this proposal, States will be empowered to make more efficient decisions about the mix of transportation services that best meet their citizens' needs.

Now, if the Governor of a State says, ''I do not want any part of any Amtrak service,'' fine. That is up to the State. Let them make that choice. Mr. President, this amendment would help those States and others maximize the effectiveness of their transportation dollars. Specifically, it makes Amtrak an eligible use for funds from the following areas:

The surface transportation program. Right now those funds may be used for most kinds of roads and highways as well as for capital costs, for bus terminals, for carpool projects, for bicycle and pedestrian facilities, for hiking paths, for bike paths. They can use the highway funds for all those things, but they cannot use it for Amtrak passenger rail service.

Our amendment would add intercity rail to that list, consistent with the aims of the program to support a fully integrated transportation network. This amendment also makes intercity rail an eligible use for the so-called CMAQ funds. This program—congestion mitigation and air quality is what the acronym stands for—this program is designed to help urban areas come into compliance with the Clean Air Act requirements.

Mr. President, Amtrak can cut down on congestion and carry the same number of people with less pollution than cars on the highways. Surely this would be an appropriate use of those funds, a use currently denied the States.

In addition to those provisions, Mr. President, this amendment would permit States to enter into interstate compacts in support of Amtrak services. Logically, it may require coordinated efforts among a number of States to make a regional passenger railroad possible. Those States could use the funds from the program I just listed or make use of bonding authority under the compact to support intercity rail services. In every instance, this proposal is consistent with the goals of the ISTEA, so-called ISTEA. And in an important sense, this amendment simply removes the inconsistencies in the earlier legislation.

When ISTEA was enacted in 1991, Mr. President, the major premise of that legislation was to remove inefficient and unnecessary hurdles in the way of our national transportation policy. Fundamental to that landmark legislation was the realization that all of the

components of our transportation system, all of the various transportation modes, must be allowed to work together, each making its own appropriate contribution according to what the States believe are needed to do that.

In the end, ISTEA provided unprecedented flexibilities to States and localities to make use of Federal transportation funds to provide the mix most appropriate for local, State and regional transportation needs.

The amendment we are offering here today extends the irrefutable logic of that approach to intercity rail service making it eligible for Federal transportation funds. By opening up more options to State and local officials, by relieving congestion on our highways and in our airports, this amendment is fully consistent with the goals of ISTEA. I urge my colleagues to keep in mind that the very highway interests who argue against this amendment argued against all those other changes as well.

And I want my colleagues to please keep in mind, when they vote on this amendment, what this amendment does not do. It does not add a dime of additional money to State or Federal funds. It will not require the States to spend a single dime on Amtrak. It will not change any formula allocating transportation funds to your State. And it will not affect the amount of annual Federal transportation funds that your State will receive. It will merely give your State greater flexibility.

I yield the floor and reserve the remainder of the time.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Montana.

Mr. BAUCUS. Mr. President, I listened with great interest to the Senators from Delaware in support of this amendment. It has a lot of surface appeal. But I think, in the interest of disclosure, in the interest of common sense, it is important for Senators to think through a lot of other ramifications that have not all been discussed. If one thinks a little more deeply about this, I think one will realize maybe this is not a good idea after all.

Several points. First of all, this is essentially an amendment to rob Peter to pay Paul. We are going to rob our highway funds to spend money on Amtrak. I do not know if that is something we want to do. Frankly, I do not know if it is something that the Governors really want to do, the State legislatures really want to do. I would guess that most Governors, most State legislatures would rather have what they have today, a current, dedicated highway account to decide how to allocate the highway dollars among the States and not have to decide, of the dollars they get, how much is going to go for highway and how much is going to go for Amtrak. Rather, it would be better to have a separate, dedicated Amtrak account separate from a separate, dedicated highway account.

I have an idea how we can accomplish that, which I think is a much better idea to meet our Amtrak needs than the idea that is contained in this amendment.

It is also important to know that there are tremendous road and bridge needs in our country. About $212 billion are necessary to get our highways up to grade. There are a lot of highways in America. There are a lot of potholes and roads that are just in bad shape and not up to standards, up to snuff. The Federal Highway Administration estimates a total of about $212 billion of unmet highway needs. Then there are the bridge unmet needs. The Federal Highway Administration estimates that is about $78 billion, about $78 billion of bridge disrepair, that is, bridges that just are in bad shape in our country.

For example, if you take the State of Arkansas—I am going down some States alphabetically—37 percent of the bridges in the State of Arkansas are deficient. Let us go down to Georgia. Twenty-one percent of the bridges in Georgia are deficient, that is, either functionally obsolete or structurally deficient, as estimated by the Federal Highway Administration. In the State of Iowa, 31 percent are deficient. In the State of Louisiana, 40 percent are deficient. In the State of Michigan, 35 percent are deficient. In the State of Nebraska, 38 percent are deficient. In the State of South Dakota, 31 percent are deficient. Let us look at Delaware. In the State of Delaware, 25 percent of the bridges in Delaware are deficient, that is, either functionally obsolete or structurally deficient. In the State of New Jersey, Mr. President, that figure is 47 percent. The averages, as we go down this list are around a high of 66 percent. That is the State of New York. The lowest I see on this list is 11 percent for Arizona. But the average is about 30 percent, 40 percent. So I wonder if we want to take money away from bridge construction and repair, in the way of highway construction and repair, and spend it on Amtrak? I just do not think we want to do that, particularly if there is a better way to accommodate the needs of Amtrak.

Another problem. Highway planning takes years. Anyone who has spent any time talking with the State highway departments, essentially to determine which roads to construct, which repairs are to be put in place and which bridges are to be repaired, knows that it takes time. It takes about 5 years.

You have to go through the environmental impact statements and public hearings. You have to have rights-of-way hearings, what is the right-of-way going to be for a certain road, even for bridge construction. It takes a long, long time.

There is a backlog of highway projects in most States. Basically, it is because the needs are so great and the dollars are so few. That puts a lot more pressure on planning and proper planning of highway projects, whether it is roads or bridges, or whatever it might be. And it means if they are not done right, they are litigated, lawsuits are filed, because the EIS process is not fully complied with.

I am just saying, Mr. President, if we have this already fairly convoluted process determining which highway projects are to be pursued in each State, then layered on top of that the possibility that all of that is going to be disrupted because we are going to divert some money, perhaps, in a State to Amtrak, it is going to be chaos and difficult to plan. It is hard enough to plan for a project, hard enough for people to know if they are going to get their highway project. This is going to make it that much more uncertain, that much more complex, and that much more difficult. Basically, we are doing people in our States quite a disservice, if there is a better alternative—I think that is a pretty important point to make—if there is an alternative to deal with Amtrak.

Another problem with the amendment is, basically, as I understand the amendment, it says that a State, according to its own discretion, can divert some of the highway money it gets to pay for Amtrak. I am not sure it is going to work. Why might it not work?

The problem is this: There is a provision in the proposed amendment which provides for interstate Amtrak compacts, but that is all voluntary. Let us take the northern-tier States, the State of Washington, then Amtrak's route follows Washington, Idaho, Montana, North Dakota, over to Minnesota, down to Illinois, and into Chicago. We have Amtrak problems. Amtrak service has been reduced from 7-day service to 4-day service. We would love to have full 7-day service of Amtrak in Montana along the northern tier, just as I am sure other States that face reduced service would like to be restored to full service, even better service.

Let us say we in Montana say, ''You bet; this amendment is the law. We are going to, even though we don't like it, make the Hobson's choice of diverting some money away from highways,'' and believe me, we have great unmet highway needs in Montana. Let us say we make the Hobson's choice and we painfully, after much gnashing of teeth in our State between those who want to ride Amtrak and those who want to meet highway needs, make some decision to divert away from highways to Amtrak. What is that expenditure going to be? Is that going to be a capital expenditure? Are we building better roadbeds? Are we going to pay money to hire more conductors and other personnel?

Let us say we do it. We are going to have Amtrak. It is going to work. Suppose folks in Montana want to go someplace; they want to go to the Pacific coast, they want to see the ocean, or go in the other direction to Minneapolis and Chicago. Let us say the adjoining State does not do anything.

If North Dakota, in its wisdom, or Idaho, in its wisdom, or Washington, in its wisdom, say, ''Well, we're not going to divert any money,'' what is going to happen?

We have this spruced up service in Montana, we go rushing off to the border, and what happens? Is the train going to stop as we wait for the 2 or 3 more days because Idaho only has alternate day service, or do we have to get off our train in Montana—we have a superliner going through Montana which zips along at 150 miles an hour. We get to that old border and the train stops. Everybody gets off the train and gets on a little dinky, bumping-along Idaho train on Amtrak to get over to Washington. I do not know, but I do think the probability of all States agreeing on a capital expenditure program or all States agreeing to spend money for operating expenses, whatever it is, is probably zero. It is probably zero.

So, as a practical matter, I do not think this is going to work. It sort of sounds good on the surface: Oh, we are going to divert money for Amtrak. It may turn into an intercity rail program only within the State. We have a mass transit program for that that will not turn into an interstate national Amtrak system. It will not work. It just will not work. I think we probably should not spend our time, frankly, adopting something which, as I said, just will not work.

Another point. There is some, not a lot, of support for a Federal gasoline tax—some, not a lot. People do not like paying gasoline taxes, but they are willing to pay a little bit because they know that that money, the gasoline tax, is going to go to the highway trust fund, and from the highway trust fund, it is going to be spent on highways.

It is true, we are not simon pure here. Some of the highway trust fund money now goes to related purposes. Some goes to bike ways, some goes to safety programs, highway safety and related programs, and even some of it goes to mass transit. But, still, Mr. President, I do not know that we want to further dilute the purpose of the gasoline tax.

There are a lot of people in our country who pay gasoline taxes for highways. They do not want to pay gasoline taxes for Amtrak. If we are going to work on public confidence in Government, we will to do better if we keep the purpose for which money is raised directly related to the person who is paying the money—user fees, if you will. I just think it is very worrisome if we go down the road and start raising gasoline taxes, as I said, and spending it for other purposes.

What might be a better idea? Let me suggest one. This gets a little complicated, but bear with me.

The long and the short of it is, under the law today, about—in fact exactly—2½ cents of the Federal gasoline tax goes to the highway trust fund; 2½ cents of the current gasoline tax and diesel tax goes to the highway trust fund.

In 1996, just a year from now, that 2½ cents that currently goes to the highway trust fund will go for a different purpose. Two cents of it goes to the highway trust fund and one-half cent goes to the transit trust fund. I am suggesting that we take that half cent, which in 1996 is scheduled to go to the transit trust fund, and instead dedicate it to Amtrak, about $600 million.

The beauty of that, Mr. President, is it takes nothing away from mass transit. The mass transit trust fund account today is already at a $5 billion surplus. Currently, out of the gasoline tax, about one-half cent goes to the transit trust fund. I am suggesting we keep the same amount that is now going to the transit trust fund—as I said, it is a $5 billion surplus; it is already paying for mass transit. The one-half cent I am talking about does not now go to the transit trust fund; not yet. It is scheduled to go to the transit trust fund in 1996. I am suggesting we take that one-half cent and spend it on Amtrak. Is it new taxes we have to raise? None whatsoever. But it is one-half cent available to spend on Amtrak. That raises $600 million.

Mr. BIDEN. Will the Senator yield on that point?

Mr. BAUCUS. Just a second. We cannot do that on this bill. We cannot provide that amendment on this bill because that is a revenue measure, and it will be blue-slipped by the House of Representatives. That is, they will just not consider it, because as a revenue bill, it did not originate in the House. When we get to reconciliation, we then have an opportunity to include this provision in reconciliation, which I think is the way to solve the Amtrak problem. The deficit in Amtrak is about $1 billion a year. We have to make a lot of changes in Amtrak, spruce it up, and make it more efficient and so forth. But here is a way to provide $600 million a year without increasing taxes, and because Amtrak is so important to our country—it is vitally important throughout America. There are only two or three States that do not have Amtrak service, but the rest do. I suggest that the better way to handle this whole problem is to pursue the alternative I am suggesting, which solves the Amtrak problem, rather than the amendment before us which I think will cause a lot of headaches and heartaches and will not even begin to solve the problems that we have to deal with regarding Amtrak.

I yield to the Senator from Delaware.

Mr. BIDEN. The Senator from Montana essentially answered the question I was about to ask—that we could not do that on this bill. I agree that that would be a significant and important change. Granted, it only comes out of the mass transit fund, which, right now, is in surplus. But it does not come out of the highway money. I would rather see a half-cent come out of that 2 cents going to the highway fund. But it is very important.

I want to respond very briefly to the four basic points the Senator made. I will really focus on one. He talked about this being—that we are robbing Peter to pay Paul. That is a judgment for Peter to make, whether he wants to give it to Paul. ''Governor Peter'' can decide whether or not he wants to suggest that it go to Paul. If Governor Peter wants it to stay where it is, you do not have to rob anybody. It stays where it is.

This notion of the need for bridges and repairs, obviously, if the States conclude the bridges are more important to them than Amtrak, then they will make that judgment. We are only talking about one portion of the highway trust funds that go into the State, which rough cut is about 25 percent of the moneys that the States get, that is the only portion they could use.

No. 3 is this notion of disruption. I have great admiration for my friend from Montana, and I mean that sincerely. He knows that if you can paint a picture for someone that makes the proposition look a little ridiculous, it is very compelling. His idea of going 150 miles an hour through Montana to the border of Idaho and getting off the train and getting on this chugalug train that is going to take you through Idaho, is a very disruptive picture. That is why Senator ROTH placed in the legislation this compact that no Governor is going to in fact decide to divert money to Amtrak from their highway trust fund money if in fact they know that train is going to stop at the Idaho border.

So the reason for the compacts are allowing the States of Washington, Idaho, Montana, and the Dakotas, to sit down and say, does it make sense for us all to do that? If they cannot get it done, they are not going to do it. It is a very colorful picture to paint of this train speeding and going through Coeur d'Alene, ID, and then coming to a screeching halt. It is not realistic and not likely to happen.

I will end by saying that my friend from Montana has been very, very helpful in the past regarding the need to set up a dedicated fund for Amtrak, just like there is one for highways, recognizing the national need. The point, though, is that if the States conclude that it is better to use that small portion of their highway funding for Amtrak, and if they want to do that in conjunction with other States in their region, we should allow them. We allow them to do that for bicycle paths now, Mr. President, and we allow them to do that for walking paths. We allow them to go out and buy buses, and we allow them to make capital investments for other means. The only thing we do not allow them to do is deal with it with regard to intercity rail service.

I was intrigued by the Senator's remarks, and I am heartened by his commitment to taking a half-cent of the gasoline tax, which is now going in one

direction but will revert to the way in which he suggested—coming up with $600 million for capital for Amtrak which, by the way, would meet Amtrak's capital needs on a yearly basis. He is correct, it would essentially put them in the black. They would be able to run in a very efficient way and increase service, not diminish service. I thank him for his suggestion. I look forward—if he is still willing—to working with him on the reconciliation bill to do that.

In the meantime, I think this does not create the inconvenience he suggests would be created. In large part, the most compelling argument he made is disruption, and I think Senator ROTH was farsighted in laying out in the legislation the compact capability for States, and that is the reason for that provision of the legislation.

I thank my colleagues and yield the floor.

Mr. JEFFORDS. Mr. President, I strongly urge my colleagues to support this important amendment. The Roth amendment will grant States the flexibility to use highway funds to maintain and revitalize intercity passenger rail service. At a time when we are shifting responsibility from Washington to the States, we should also allow individual States to chose how they would allocate Federal transportation funds and select transportation systems that best meet their needs for the future.

Mr. President, my own State of Vermont spent the winter working to preserve our link to the national passenger rail system. In December, Amtrak announced that all passenger rail service to Vermont would be terminated. But in April, after extensive negotiations, the State of Vermont and Amtrak announced the establishment of the Vermonter, a new day train traveling from Washington, DC, to St. Albans, VT. The key to preserving this rail service was that the State of Vermont was willing to pay, out of general funds, the operating costs of this train. This is how important rail service is to Vermont.

Earlier in this debate a number of Senators referred to a letter in support of this amendment from four Governors, including Governor Dean of Vermont. The letter clearly illustrates that States want the flexibility to use Federal transportation funds as they chose. Vermont would use these funds to support the Vermonter and possibly other passenger rail in the State, including a proposed route from White Hall, NY, through Rutland to Burlington, VT. Clearly, Vermont and other States should have this option. I commend Senator ROTH for his dedication to this issue and I urge my colleagues to vote for this important amendment.

Mr. WARNER. Mr. President, the distinguished Senator from Montana, the comanager of the bill, and I at this time would like to see if we can get a unanimous consent request with regard to time limitations on the three amendments.

We start with the amendment now under consideration. It was indicated to the managers earlier that Senators ROTH and BIDEN would agree to 1½ hours equally divided. We can calculate the amount of time that has expired thus far and then determine the time at which the 1½ hours would be completed.

I yield to my colleague.

Mr. BAUCUS. Mr. President, will the Senator again go through the list?

Mr. WARNER. Yes, I am happy to do that. Mr. President, the distinguished Senator from West Virginia indicated that on his amendment, he would be agreeable to 1 hour equally divided. The Senators from Delaware, Mr. ROTH and Mr. BIDEN, indicated 1½ hours equally divided. The Senator from North Dakota, Mr. DORGAN, said 40 minutes equally divided on his amendment.

Mr. LAUTENBERG. Reserving the right to object. Would the manager on the Republican side be able to tell me, or would the Parliamentarian be able to tell us, how much time remains on the hour and a half at this juncture?

Mr. WARNER. The pending Roth-Biden amendment. We put that question to the Chair.

The PRESIDING OFFICER. Forty-six minutes have been consumed on that amendment up to this point.

Mr. LAUTENBERG. Will the distinguished Senator from Virginia be willing, if Senator ROTH is inclined to agree, to divide the remaining time? I ask that before a unanimous consent is agreed to. Frankly, I would like a chance——

Mr. WARNER. I think I have an easier solution. The Senator from Montana has expressed my views very clearly. I associate myself with his remarks and thereby with the exception of maybe 2 minutes, I will forgo such time as I may require or would have required otherwise. So I suggest let us agree to the hour and a half—first, how much time does the Senator from New Jersey want?

Mr. LAUTENBERG. I will have to ask the Parliamentarian how much time remains on the Roth-Biden amendment.

Mr. WARNER. Would the Senator indicate how much time he desires?

Mr. LAUTENBERG. I think we ought to have 20 minutes to further discuss the issue, if that is acceptable to Senator ROTH.

Mr. WARNER. I suggest that we amend the time agreement and say that the pending amendment would be completed in 35 minutes, 20 minutes of which would go to the Senators from Delaware, with a due allowance to their colleague from New Jersey and the 15 minutes would be divided equally between the Senator from Montana and myself; that we may then proceed to the amendment of the Senator from West Virginia [Mr. BYRD] who desires an hour on his amendment.

I ask unanimous consent that that be ordered.

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

Mr. WARNER. Lastly, the Senator from Montana and I now pose a unanimous-consent request that the amendment of the Senator from North Dakota [Mr. DORGAN] be concluded in 40 minutes, equally divided.

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

Mr. WARNER. It is the hope of the managers of the bill that the Senator from West Virginia could proceed following the disposition of the amendment of the Senators from Delaware.

Mr. ROTH. Mr. President, I yield 15 minutes to the distinguished Senator from New Jersey.

Mr. LAUTENBERG. I thank the Senator from Delaware. Perhaps I will use less than that. I appreciate it.

Mr. BAUCUS. Mr. President, I would like to mention to my colleagues, the Senator from West Virginia [Mr. BYRD] would like the unanimous-consent agreement to provide that there be no second-degree amendments to his amendment.

Mr. WARNER. I join the Senator from Montana in that request.

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

Mr. WARNER. Mr. President, while the Senator from Montana and I are up, we are making great progress in resolving the other amendments.

I urge all Senators who have pending matters to send their staffs over at this time to complete the amendments which are outstanding. As far as I know, the Senator from Montana and I only know of these three amendments subject to time agreements which will require rollcall votes.

Mr. BAUCUS. Mr. President I would like to echo that statement. We are close to finishing this bill. It behooves Senators to come over quickly and work on their amendments so we can finish this bill tonight. I thank the Senator.

Mr. LAUTENBERG. Mr. President, I thank the Chair.

Mr. President, I rise in strong support of the Roth-Biden amendment, perhaps to no one's surprise, because I have long had an interest and an association with Amtrak.

This amendment is fairly simple. I think it has been well stated by both of the distinguished Senators from Delaware. The central purpose of the amendment, as I see it, is to provide the States with flexibility—something we constantly urge around here—to use funds provided on two of the major Federal transportation formula programs for the cost of interstate rail passenger service.

The thrust of this amendment closely resembles a provision that passed the Senate that I sponsored during the debate on the Intermodal Surface Transportation Efficiency Act, which we call ISTEA.

Under the amendment, Governors and State transportation officials

would be granted the flexibility to use funds provided under the surface transportation program [STP], the Congestion Mitigation and Air Quality Program called CMAQ, for the costs of intercity rail passenger service.

I want to make one thing quite clear. This amendment does not mandate that even one cent of highway or transit formula funds will be spent on Amtrak service. The only way one penny can even be used for Amtrak, is if the Governor and the State transportation officials want it to happen.

When the Congress adopted ISTEA, we made great strides toward enhancing the flexibility of State transportation planners in directing Federal funds to the types of transportation projects that best suited their needs.

However, in the final conference report, there was a glaring omission. That was the flexibility to direct Federal formula funds to the cost of intercity rail service.

The Senate-passed version of ISTEA did include such flexibility for the surface transportation service. However, jurisdiction over rail programs at the time was under the House Commerce Committee. As such, it was very difficult to get members of the House Public Works Committee to accept the provision.

We now have a new opportunity to address this issue, since the House has moved jurisdiction over rail matters to our companion committee in the House, the newly-named Transportation and Infrastructure Committee.

All Members are aware that Amtrak has been facing especially difficult financial times over the last year. Amtrak has been required to announce several service cuts and route eliminations to reduce or eliminate an operating deficit that exceeds $200 million.

These service cuts and eliminations impacted many States, including my own. We heard the distinguished Senator from Montana talk about how valuable he viewed Amtrak service in the State of Montana. They have had what to some would appear to be a modest cut, yet it was apparently deeply felt.

In the wake of these service cuts, numerous States have been scrambling to find their own funding to maintain Amtrak service. Many of these same States have asked Members to explain why they can use their Federal formula funds for transit purposes but may not use them for intercity rail service.

I do not believe that any Members have a good answer to that question. Amtrak's delicate financial situation was brought about largely through underinvestment, over a great many years, in our national rail network. Our national passenger rail corporation, Amtrak, covers a higher percentage of its operating costs than any other passenger railroad in the world. It benefits from an operating subsidy like every other passenger rail system in the world, but at a smaller subsidy per passenger than any of the others. Compared to our industrial competitors, we spend a pittance on our national rail network.

Within the next 5 years, France plans to spend nearly $125 billion on intercity rail enhancements. If anyone has a chance to see the TGB and see it zip along the countryside at a cool 180 or 200 miles per hour in comfort, speed, attracting lots and lots of passenger, one would see why the investment is justified.

Germany will spend over $70 billion during the same period. By the end of this century, Sweden, a relatively tiny country, plans to invest as much in rail enhancement as it does in highways.

Just within the European Community, high speed rail investment is likely to top $100 billion by the year 2000. On average, European countries invest between 1 and 1.5 percent of their GDP in intercity rail. That compares with our country where we invest roughly five one-hundredths of one percent on our national passenger rail service, Amtrak.

No one is suggesting we use highway funds to embark on a major rail investment program. However, Amtrak's recent financial difficulties make it clear that we must take action to ensure the future of a national rail network, to ensure that our Nation has a balanced transportation system.

This amendment takes a small step to allow the Nation's Governors—and we are talking about flexibility, and we are talking about decisions made within the State—the option of preserving a balanced transportation program in their States. If they do not want to use any of it for Amtrak, they need not do it.

Throughout our recent political debates over the role of the Federal Government, there has been increased attention to the benefits of giving States enhanced responsibility while simultaneously giving them increased flexibility. This model, it is assumed, will provide for a more efficient public service transportation system.

This is clearly one area where this model can benefit the traveling public across the Nation by giving Governors access to the full range of transportation options.

I want to speak about the region of the country I come from, the Northeast. I can tell my colleagues—and Senator BIDEN and Senator ROTH are only too familiar with this—that in my part of the country, Amtrak is absolutely indispensable. It is one of the most cost-effective investments of Federal transportation dollars in the region. Fully half of Amtrak's ridership travels on the Northeast corridor, the most congested transportation corridor in the United States.

Now, all the highway spending in the world could not overcome the lack of adequate right of way to construct enough lane miles to accommodate all Northeast corridor Amtrak traffic. There is simply not the capacity in the already congested airports of the Northeast to accommodate an additional 11 million passengers annually.

Mr. ROTH. Mr. President, would the Senator yield?

Mr. LAUTENBERG. I am happy to yield to the Senator.

Mr. ROTH. Mr. President, I think, to underline the point made by my distinguished colleague, it is important to understand, for example, in the case of New Jersey, the ridership in 1994 was 1,369,000; in Maryland, 1,448,000; in my little State of Delaware, 607,000. Is there any way we could replace that travel by building additional roads?

Mr. LAUTENBERG. There is no way on Earth, as they say, to provide the capacity for additional highway lanes. But, further, I say to the distinguished Senator, Amtrak currently carries half of the combined air-rail market between New York and Washington, DC. Were Amtrak service to disappear, listen to this, it would add the equivalent of 10,000 fully booked DC–9's to the already congested air traffic in the Northeast. There is not enough room on the highways or on Earth. And there is not enough room at the airports or in the skies to accommodate such growth.

What a disaster it would be for the economy of the Northeast as well as the country as a whole. It is already almost impossible to move on our highways and get in and out of the airports during the peak holiday seasons. The noteworthy ones, Thanksgiving, Memorial Day, Labor Day, Father's Day—you name it, it would be a disaster. If you eliminate Amtrak service in the Northeast, traffic on the highways and at the airports will come virtually to a dead stop. So we need to find ways to expand our passenger rail infrastructure, not to kill it. I am pleased to hear the Senator from Montana talk positively about Amtrak. We have to find the funding for it.

The GAO estimates that productivity losses due to highway congestion each year cost our Nation $100 billion, each year. DOT estimates that in our 39 largest cities, traffic congestion costs $44 billion annually. And absent any effort to expand our rail capacity and other nonhighway alternatives, highway use is expected to grow at such a rapid rate that all the increased highway spending that we could muster could not handle the growth and the congestion.

The Senator from Montana made a good point. He said if you do not claim your highway use, the construction and so forth, enough in advance, you could wind up with a patchwork quilt of things. So it is with Amtrak. That is why I think the Senator from Delaware provided for a compact arrangement between States, to be able, hopefully, to agree on a program that fits the needs of the several States in the area.

The situation is just as bad at our Nation's airports. Winglock, congestion at our airports, costs our economy roughly $5 billion a year. It is expected air travel delays will only worsen over the next several years. Within the next

5 years, most major airports will exceed 80,000 hours of annual flight delays each year. In short, it is a major, major problem.

Completing the electrification of the Northeast corridor, which is virtually underway, though not specific construction—but a lot of engineering, a lot of the planning and some of the equipment has been ordered—is expected to attract 3 million additional passengers annually between New York City and Boston to our rail system, taking them off already congested highways and airways.

Completing the electrification will alleviate the need for creating highway capacity for 324,000—the numbers are staggering—324,000 drivers each year and the cost of expanding aviation capacity to accommodate 50 daily New York-Boston flights. The cost of this rail project is, as we say, peanuts compared to the Federal funds that would be required to be invested to achieve the highway and aviation capacity that would be otherwise needed.

The prospect of expanding Logan Airport in Boston runs into multiple billions of dollars just in that one place.

I am in contact, and have been in contact, with Governors along the Northeast corridor, almost all of them—almost all of them—Republican. They recognize the critical value of Amtrak to our region. They currently have the opportunity to use discrete amounts of their Federal formula funds for costs associated with transit service in the region, and Amtrak service should be no exception.

In sum, it is very obvious that those who think in detail about transportation needs—to those who come from the northeastern part of the country, those who come from all parts of the country, because there are not any Senators that I have had a chance to talk to where there is some Amtrak service who do not want to either expand it or continue it—I have not heard any of them volunteer to eliminate the Amtrak service, as sparse as it may be within their State.

So I hope we will be able to provide this flexibility. We are not taking anything away from anybody. If the question is put, is there sufficient funding for bridges? Heck, no, there is not sufficient funding for bridges in our society. Even to repair those that are functionally obsolete, there is not enough money for it.

Is there enough to maintain the highways in the condition we would like to see them? No, there is not. But if we lose Amtrak and we lose the infrastructure that is associated with national rail passenger service, we will be in far worse shape because at least if we keep the intercity railroad going, we have a chance to buck the trend and be able to accommodate the traveling needs of the public.

I hope this amendment will carry. I commend Senators ROTH and BIDEN for bringing it to this point. I think it is timely. There are so many services that we would like to see operating in the transportation infrastructure network of our country that are just not going to be able to be funded. I know for some Senators in some of the Western States, something called essential air service is a critical factor. We want to try to fund it wherever we can.

All of these are competing for funding. All of these modes are competing for funding, but this one, national rail service, national passenger rail service, is an essential factor if we are going to think about a balanced transportation network in this country of ours.

I urge my colleagues to support the Roth-Biden amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I will make a couple of points that I think are worth knowing about this amendment.

First of all, this amendment is opposed by a lot of groups. Let me read a letter from Keep America Moving. It is an organization interested in our highways. I will just read the relevant part:

> The undersigned organizations believe the National Highway System is vital to America's economic and defense needs. We urge you to support prompt passage of the NHS and oppose any efforts to subsidize Amtrak with highway funds.
>
> Sincerely,
>
> American Automobile Manufacturers Association.
> American Bus Association.
> American Consulting Engineer Council.
> American Movers Conference.
> American Petroleum Institute.
> American Portland Cement Alliance.
> American Road and Transportation Builders Association.
> American Trucking Associations.
> Ashland Inc.
> Associated Builders and Contractors.
> Associated General Contractors.
> Highway Users Federation.
> National Asphalt Pavement Association.
> National Association of Manufacturers.

There are a lot more. There is a lot of opposition, I might say, to this amendment.

Second, I wondered what the donor States think of this amendment. Mr. President, about half of the States of our country are so-called donor States. They just get the willies when they realize they are spending more money on gasoline taxes than they are getting back in highway funds. Now, what are they going to think, the donor States—here is a whole other opportunity to spend their money on another State?

I frankly think the donor States would not be very happy about this amendment. The donor States, about half of our States, would get very nervous, in fact upset with the idea of spending more of their money on some other State, in this case for Amtrak.

Also, let me sum up by saying this is not going to work, this proposal. There are 46 States in our country that have Amtrak. As I hear the proponents of this amendment, there are 46 different horses before the Amtrak cart; 46 different States have an idea how to improve Amtrak, 46 different States. Capital expenditures, operating expenditures—who knows what?

Amtrak is a national system. It is not a separate 46-State system, it is a national system. That is why I again come back to the idea I proposed earlier. I want very much to help the Senator from New Jersey by taking that half-cent that is, in 1996, scheduled to go to the mass transit account which already has a $5 billion surplus, and say dedicate that half-cent instead to Amtrak. It is $600 million. That is a national solution to a national problem, rather than a 46-State solution to a national problem.

I understand the provisions in the amendment—compacts and all that. But those compacts are not going to work. States are not going to agree to those compacts. If they do not work, then they do not work. Then we are not solving the problem.

I think, frankly, it is an idea that has surface appeal and it is an idea that is not going to work, and I suggest we therefore agree to this amendment. Dig down, agree to it, get the amendment agreed to that I am suggesting, namely that half-cent dedicated to Amtrak.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. How much time do I have left, Mr. President?

The PRESIDING OFFICER. The Senator has 4 minutes and 22 seconds remaining.

Mr. BIDEN. Will the Senator yield 2 minutes?

Mr. ROTH. I yield 2 minutes to my distinguished colleague.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, everything my friend from Montana said up to a moment ago was basically correct when he said how are the donor States going to feel having another way to spend more money? No more money can be spent for this amendment, No. 1. No. 2, we are a donor State. We are for it. No. 3, the idea that somehow there are other ways to spend the money meaning that we are going to be taking money from one State and spending it another State is not accurate. I do not think he meant to say that. He may have left that impression.

Mr. BAUCUS. I appreciate that. If the Senator will yield, what I meant to say is that it is not more money, but a donor State spending money for more purposes.

Mr. BIDEN. We are a donor State. We like that opportunity.

Lastly, the list from the cement manufacturers to the highway people, it seems like 100 years ago when I first got here in 1973 and was on the committee that the Senator is now the ranking member. Then every one of those interests were against anything that had to do with transportation other than highway. They always will, they always were, they always will be, and they always have. They were

against the ISTEA provision that is related to transportation other than highways. They are against anything that does not lay cement, macadam, or concrete. It is real simple. Do not blame them. It is all there, the naked self-interest which is the way this place runs. OK, but the idea that they are against this, they never have been for anything at all progressive that related to any mode of transportation other than laying concrete, so help me goodness.

I yield the 10 seconds I probably have left.

Mr. LAUTENBERG. If the Senator will yield for one question, does he think the automobile manufacturers are not objecting when they want to preserve all of the funding that we could muster for highways?

Mr. BIDEN. Mr. President, I think the automobile manufacturers—my father having been an automobile salesmen his entire life—are honorable, decent people who know their self-interest, and I respect them for that.

Mr. ROTH. Mr. President, I want to emphasize once more that the Roth-Biden amendment requires no new spending. It does not change any Federal transportation formula. It does not require a State to spend any money on Amtrak or intercity rail. It simply provides States with the flexibility to support Amtrak with funds they already qualify for, and it responds to a real need, a real need expressed by Governors around the country who are seeking the means to support Amtrak services that have been cut back. It promotes State responsibility in support of our national transportation system.

Current prohibitions against using Federal funds for Amtrak frankly skews public policy away from a cleaner, cheaper option—intercity rail. Highway user fees, gas taxes, already go to fund many other surface transportation options from mass transit to hike and bike trails. Only intercity rail is cut off from those funds. States cannot now choose to support Amtrak with those funds.

At the same time that they are losing Amtrak services, many of our States find themselves with unused surpluses and programs they do not need.

So the goal of our highway bill is to increase State and local flexibility to improve the efficiency of our national transportation system.

This amendment would promote that goal and remove what I believe to be an arbitrary restriction on States' transportation choices.

I yield the floor.

Mr. WARNER. Mr. President, I have done a great deal of work on this amendment.

Mr. President, I rise in opposition to the Roth-Biden amendment to make Amtrak activities, including operating expenses and acquisition of equipment, eligible for National Highway System funds.

If the amendment before us is adopted, it will reverse the momentum and progress of the National Highway System and the purpose of this bill. It would drain the gas out of our tank.

The NHS will ensure that our surface transportation network performs to maximum efficiency. In order to meet this maximum level of efficiency, the highway trust fund must remain in tact to meet the funding requirements needed to meet our urgent number of highway and bridge needs.

The American taxpayer pays into the highway trust fund through gas taxes. We must ''keep faith'' with our citizens to ensure that existing roads are maintained and where necessary new roads are constructed. Those who have paid into the highway trust fund expect that their fuel taxes will be available to respond to our highway needs.

While there is no doubt that Amtrak has started to make some needed restructuring improvements in their day-to-day operations, it is clear that a complete overhaul of the system is necessary.

As the Federal Highway Administration has stated that the highway trust fund cannot begin to meet existing highway and bridge needs, it is not wise to dilute the effectiveness of these limited dollars. It is estimated that $290 billion is needed to fund the backlog of repairs and improvements to the current highway system. By diverting any of the $6.5 billion annual authorization for the National Highway System to Amtrak, we would be placing our roads and bridges in jeopardy.

At a time when transportation infrastructure dollars are so constrained, priority funding should go to those areas of transportation which will move the largest number of goods and people across the country. The NHS roads carry about 40 percent of all highway traffic and 75 percent of all commercial truck traffic. Over 80 percent of intercity passenger miles are traveled on our highway system, not on Amtrak. In fact, Amtrak carries less than 1 percent of all intercity passenger rail miles.

I have in the past and will continue to be a supporter of Amtrak. It is undeniable, however, that Amtrak currently carries a very low percentage of all intercity passenger miles traveled in comparison to our Nations highways. The highway trust fund, to which rail passengers have made no contributions, must not be used for this purpose.

I ask unanimous consent to have printed in the RECORD certain documents relating to my comments.

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

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, DC, May 1, 1995.

Hon. JOHN W. WARNER,
Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: On behalf of the U.S. Chamber of Commerce Federation of 220,000 businesses, 3,000 state and local chambers of commerce, 1,200 trade and professional associations, and 72 American Chambers of Commerce abroad, I urge you to oppose any effort to include Amtrak routes in the National Highway System (NHS).

Senators Roth, Biden, Murray, Moynihan, Jeffords, and Leahy have introduced legislation (S. 733) that would provide states with the flexibility to shift Highway Trust Fund dollars to Amtrak's capital and operating budgets. We are concerned that portions of this bill may be offered as an amendment during the Environment and Public Works Committee markup of S. 440, the ''National Highway System Designation Act of 1995.'' Given that the United States is investing significantly less than the amount needed to maintain our roads and bridges, a subsidy for Amtrak, via Highway Trust Fund dollars, would be an affront to many of our members who expect their fuel taxes to be spent for their intended purpose.

In these times of budgetary cutbacks and competing demands, the NHS represents good government. It gives priority funding to those roads that are most important to our commercial and personal commuting needs. In fact, the NHS only accounts for four percent of America's total system mileage, yet will carry 40 percent of all travel and 75 percent of all commercial vehicle travel. Also, 95 percent of all businesses will be within five miles of the NHS. Moreover, the NHS represents a bottom-up approach, whereby state and local officials played an instrumental role in formulating the Department of Transportation's designation map.

However, if an Amtrak amendment is successful, the Chamber's support for S. 440 would be in serious jeopardy. In particular, we are very concerned about the findings contained in a February 1995 General Accounting Office report on Amtrak which shows that:

Not a single Amtrak route is profitable when capital costs are taken into account; revenues cover only 65 percent of the cost;

Amtrak will need $4 billion in capital investment just to maintain its equipment and facilities;

Over the next five years, Amtrak will accrue a $1.3 billion operating deficit, despite its revenues and its $1 billion-per-year federal subsidy; and

Despite service cutbacks and other cost-cutting measures, Amtrak is unlikely to close its deficit gap.

The September 30, 1995 deadline for passage is coming quickly. The needs of the transportation infrastructure are too important to let this opportunity pass by. Failure to act will mean losses of $13 billion in NHS funds to states for fiscal 1996 and 1997, which could translate into fewer economic benefits for the economy. Because the NHS designation represents a long-term commitment to our country's productivity and competitiveness, the Chamber urges passage of a bill that focuses on the designation and respectfully requests the defeat of any weakening amendments, such as language contained in S. 733.

Sincerely,

R. BRUCE JOSTEN.

AMERICAN ROAD & TRANSPORTATION BUILDERS ASSOCIATION,
Washington, DC, April 25, 1995.

Hon. JOHN WARNER,
Chairman, Subcommittee on Transportation & Infrastructure, U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: The 4,000 members of the American Road & Transportation Builders Association commend you for your leadership in moving to secure Senate approval of S. 440 designating routes of the National Highway System. We strongly support

prompt enactment of this legislation to avoid any possibility of missing the September 30 deadline and the resulting loss to the states of a substantial part of their federal highway funding.

We fully agree with your statement at the time you introduced S. 440 that nothing should stand in the way of its enactment. We are concerned, however, that other legislation being prepared for introduction would constitute an impediment to the NHS bill. That legislation, expected to be introduced by Senators Roth and Biden, would make the Amtrak passenger rail system eligible for NHS funds. Inclusion of Amtrak funding eligibility in the NHS bill would cause ARTBA to seriously reconsider its support of this legislation and would result, we believe, in a general erosion of support by other key groups.

The NHS is designed to be the principal focus of federal highway investment well into the next century. This system carries a large proportion of the nation's commercial and personal traffic. It needs billions of dollars of investment to allow it to perform this mission effectively and economically. The resources of the Highway Trust Fund already are inadequate to meet highway and bridge needs, estimated in 1993 by the Department of Transportation at $290 billion. Any further diversion of user fees paid by the nation's highway users would be totally unacceptable.

Amtrak is an important component of the American transportation system. Congress should provide it with financial assistance—from the general treasury—to the extent it deems necessary and prudent. The Highway Trust Fund, to which rail users make no contribution, should not be used for this purpose.

Mr. Chairman, ARTBA is ready to work with you in securing enactment of NHS designation legislation. We strongly oppose, however, the inclusion in that bill of any provision that would dilute trust fund revenues by making them available to Amtrak or for any other use not currently authorized.

Sincerely,

T. PETER RUANE,
President and CEO.

AMERICAN TRUCKING ASSOCIATIONS, INC.,
Alexandria, VA, May 5, 1995.

Hon. JOHN W. WARNER,
Environment and Public Works Committee, U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: On April 27th, Senator Roth (R–DE) introduced S. 733, legislation that would add Amtrak routes to the National Highway System, in effect, making the rail system eligible for capital and operating subsidies funded through Highway Trust Fund receipts. This proposal is bad law and bad policy and should not be added to NHS approval bill, S. 440. Adding S. 733 would create a contradiction to the committee's long-stated goal of passing a clean NHS bill. Further, this diversion would create unsafe highways, not meet national transportation needs, and would undercut capital funding.

I urge you to reject this amendment for the following reasons:

It would create unsafe highways. According to the Federal Highway Administration, there is not enough money in the Highway Trust Fund to meet existing highway and bridge needs. Specifically, $290 billion is needed to fund the backlog of repairs and improvements to the system. Diverting funds from these needs creates a real safety problem, such as when the I–95 bridge in Connecticut failed in 1983.

It would not meet national transportation needs. The intercity rail passenger system only carries .3% (one-third of one percent) of intercity passengers. It does not move any of America's freight. Diverting funds to pay Amtrak expenses will not significantly benefit auto congestion. It would also establish a major highway user subsidy unfair to companies that carry intercity passengers—the bus and aviation industries.

It undercuts capital funding. The Roth bill would allow up to $3.25 billion a year of capital funding to be used for Amtrak salaries and operating costs. Faced with an imminent and unplanned loss of a state's intercity rail service, a state would be under extreme political pressure to shortchange its multi-year capital improvement program and pay the operating costs. The future suffers.

The Roth proposal fails to solve Amtrak's underlying problems. In fact, it seems to sustain them. Amtrak was conceived with the objective that it would meet its expenses from operating revenues. Instead, it has sought ever increasing federal and state subsidies and has slashed services. While recognizing that some intercity routes truly make sense, replacing the General Fund subsidy to Amtrak with a highway user subsidy fails to solve its dilemma.

Please join me in preserving the use of highway user revenues for highway users. I look forward to working with you and your staff on this important issue. If you have any questions, please call

Sincerely,

THOMAS J. DONOHUE,
President and Chief Executive Officer.

NATIONAL ASPHALT PAVEMENT ASSOCIATION,
Lanham, MD, April 25, 1995.

Hon. JOHN WARNER,
U.S. Senate, Russell Building, Washington, DC.

DEAR SENATOR WARNER: The National Asphalt Pavement Association (NAPA) opposes the Roth/Biden bill to make Amtrak part of the National Highway System (NHS). This proposal constitutes an enormous potential diversion of highway user fees into subsidized passenger rail service that, according to Amtrak's own estimates, will post a $1.3 billion operating deficit over the next five years.

The NHS is designed to focus federal highway dollars on highways and bridges that are most important for safely moving people and goods in interstate commerce. The nation's highway users should not be tapped to pay the bill for a passenger rail system that provides limited transportation value.

NAPA is the national trade association exclusively representing the Hot Mix Asphalt (HMA) Industry. We have a membership of nearly 800 corporations, most of which are HMA producers and paving contractors. The majority of our members are small businesses, and our member firms produce approximately 70 to 75 percent of the total HMA produced in the United States annually.

NAPA urges you to oppose the Roth/Biden proposal.

Sincerely,

MIKE ACOTT,
President.

HIGHWAY USERS FEDERATION,
Washington, DC, April 27, 1995.

Hon. JOHN CHAFEE,
Chairman, Environment & Public Works Committee, U.S. Senate, Washington, DC.

Hon. MAX BAUCUS,
Ranking Democratic Member, Environment & Public Works Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN AND SENATOR BAUCUS: The Highway Users Federation strongly opposes any effort to include Amtrak routes in the National Highway System (NHS). Senators Roth, Biden, Murray, Moynihan, Jeffords, and Leahy have introduced S. 733 to do just that, and we understand elements of their bill may be offered as an amendment during Environment and Public Works Committee mark up of S. 440, the ''National Highway System Designation Act of 1995.'' In my judgment, if such an amendment were approved, the current widespread support for the NHS in the private sector would be seriously eroded.

The NHS is intended to focus federal highway dollars on those roads that are most important for meeting America's personal, commercial, and defense mobility needs. S. 440 designates the routes identified by Transportation Secretary Federico Peña, based on the recommendations of state and local officials. These roads carry 40% of all highway traffic and 75% of commercial truck travel. Over 80% of intercity passenger miles are traveled by highway, and NHS routes carry the bulk of that passenger service.

In stark contrast, Amtrak carries just three-tenths of one percent (0.3%) of all intercity passenger miles traveled. Ridership and revenues continue to fall, according to a February 1995 General Accounting Office (GAO) report, and even in the Northeast Corridor where the railroad gets its heaviest ridership, revenues cover only 65% of costs. Not a single Amtrak route is profitable when capital costs are taken into account, GAO says. Over the next five years, Amtrak will accrue a $1.3 billion operating deficit—even after accounting for both its revenues and a billion dollar-per-year federal subsidy. In addition, the railroad will need $4 billion in capital investments just to keep its facilities and equipment in working order.

It's clear why Amtrak's leadership and supporters would be looking for a financial prop. GAO says, however, that even the service cutbacks and other cost-cutting measures recently instituted by Amtrak are unlikely to close the deficit gap, and Congress should consider whether the railroad's ''original mission of providing nationwide intercity passenger rail service'' is still appropriate.

Whatever decision Congress makes with respect to Amtrak, the Highway Trust Fund should not be tapped for the subsidy. The U.S. already invests about $13 billion per year less than the amount needed just to maintain conditions on our roads and bridges, according to the Federal Highway Administration. This under-investment has resulted in a current backlog of $290 billion in needed road and bridge repairs. There simply is not enough money to meet our fundamental transportation needs, let alone enough to subsidize a passenger rail system that shows no promise of ever paying its own way.

Along with other organizations participating in the Keep America Moving coalition, an alliance of businesses, trade associations, and consumer groups dedicated to prompt enactment of the NHS, we are building constituent and media support for the NHS. We believe the bipartisan list of S. 440 cosponsors, including 15 Environment and Public Works Committee members, reflects the widespread public support for the NHS, and we hope the legislation ultimately reported by the committee will enjoy the same breadth and depth of support.

Sincerely,

WILLIAM D. FAY,
President.

AMERICAN PORTLAND CEMENT ALLIANCE,
Washington, DC, June 19, 1995.

Hon. JOHN WARNER,
Chairman, Transportation and Infrastructure Subcommittee, U.S. Senate, Washington, DC.

DEAR JOHN: The American Portland Cement Alliance (APCA), which represents virtually all U.S. cement production, would like to thank you for your leadership on S. 440, the ''National Highway System Designation Act of 1995.''

In light of positive developments, APCA has become aware of an amendment which Senator Roth may offer to make Amtrak routes eligible for federal highway funds. APCA strongly opposes the Roth amendment.

Motorists' fuel taxes paid into the highway trust fund should be used to construct and maintain our nation's highways and bridges—not to subsidize passenger rail service. The nation's highway system has a $290 billion backlog of road and bridge needs and cannot afford to spend limited dollars for other than their intended purpose.

In addition, Amtrak carries only three tenths of one percent (0.3%) of all intercity passenger miles traveled and no freight. In contrast, highways carry over 80% of intercity passenger miles and nearly 80% of the dollar volume of all freight moved in the United States.

APCA urges you to continue your support for prompt passage of S. 440, and to oppose an amendment to subsidize Amtrak with highway funds.

Sincerely,

RICHARD C. CREIGHTON,
President.

Mr. WARNER. Mr. President, I do not feel that the various organizations in opposition to this amendment have in any way tried to state their case other than in a straightforward way. I have received—perhaps the other managers have—a letter from the chamber of commerce.

They state very succinctly in here the following:

However, if an Amtrak amendment is successful, the Chamber's support for S. 440 would be in serious jeopardy. In particular, we are very concerned about the findings contained in a February 1995 General Accounting Office report on Amtrak which shows that:

Not a single Amtrak route is profitable when capital costs are taken into account, revenues cover only 65 percent of the cost;

Amtrak will need $4 billion in capital investment just to maintain its equipment and facilities;

Over the next five years, Amtrak will accrue a $1.3 billion operating deficit, despite its revenues and its $1 billion-per-year federal subsidy; and

Despite service cutbacks and other cost-cutting measures. Amtrak is unlikely to close its deficit gap.

The September 30, 1995 deadline for passage is coming quickly. The needs of the transportation infrastructure are too important to let this opportunity pass by.

They continue, I think, in a very responsible, straightforward way.

I do not find that those petitions to try to intervene on behalf of those of us who feel that this amendment is not wise have in any way gone beyond the facts and how they interpret their facts in terms of their own interests.

So, I conclude by saying that the statements by the Senator from Montana, particularly those referencing the gas tax—and the citizens go up to the tank. I happen to be from a donor State and represent a donor State. They pay that Federal gas tax knowing or hoping that an equal percentage would come back to the State, the Commonwealth of Virginia. Regrettably, it does not. We do not get back in my judgment all that we ought to in a fair proportion. But that battle is for another day, and I will join others in waging it.

Consequently, when a rider for Amtrak goes down and gets on the train he or she does not pay a similar tax as does the driver of an automobile.

So this amendment, in effect, would let Amtrak back up to that driver's gas tank and drain out the gas. It would take the gas out of the momentum that we now have for this particular highway program, and we have good momentum. I do not want to see that happen. This bill will add to that momentum.

So accordingly, Mr. President, I will suggest and urge my colleagues not to accept this amendment.

Mr. President, on behalf of the managers, we yield back our time.

Mr. President, I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. WARNER. Mr. President, leadership requests a quorum call be placed, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CHAFEE. Mr. President, I support the amendment offered by my colleagues from Delaware. This amendment reinforces the flexibility that the Intermodal Surface Transportation Efficiency Act, so-called ISTEA, gave to the States in setting the States' transportation policies.

That landmark legislation allowed States and local officials, for the first, time to determine how they want to spend their money. They can spend it on highway projects or transit facilities or other alternative transportation methods, even to the extent of bikeways and pedestrian walkways.

The amendment by the Senators from Delaware builds on this flexibility by enabling the States to direct their so-called congestion mitigation and air quality and surface transportation program funds to intercity passenger rail.

Passenger rail service is an important national resource. It is particularly important to the region of the country that includes my State, Rhode Island. I cannot imagine what the transportation situation would be on the east coast without passenger rail service, other than total gridlock. The highways and airways are already extremely congested and there is little room to build more highways and airports. The cost of building major new facilities in this part of the country would be prohibitive.

We have one example now in this part of the country—the central artery in Boston. The cost of improving 3.5 miles of highway and building a 3.5 mile third harbor crossing is now estimated at $8 billion and rising—over $2 billion a mile. Imagine what kind of passenger rail service we could have for $8 billion.

Yet, we are clearly in danger of losing passenger rail service in this country, and I believe that would be a terrible mistake.

Over the past year, Amtrak has been in the process of restructuring its operations. So far, the results are encouraging. Thomas Downs, the president and chairman of the board of Amtrak, testified before the Surface Transportation Subcommittee last Friday that Amtrak is ahead of schedule in achieving a net savings of $173 million for fiscal year 1995. Amtrak is also working on innovative financing options, such as partnerships with State and local officials.

Amtrak has a pivotal role to play in the Nation's transportation system. Intercity passenger rail is a vital link between automobile, bus, transit, and aviation transportation. Although the bill before us is entitled the National Highway System Designation Act, the NHS designation is a part of a multimodal national transportation system. We must not forget the big picture.

I want to point out just a few of the benefits of passenger rail.

First, passenger rail travel has made a significant contribution to the economic growth and prosperity of our Nation. Rail service in the Northeast corridor, for instance, has contributed to a major expansion of economic opportunities in the areas of Boston, New York, and Washington. It has also given other smaller cities like New Haven, CT; Trenton, NJ; and Providence, RI, the ability to take advantage of economic development opportunities that they would not otherwise have.

Second, Amtrak provides travelers with a fuel efficient alternative to crowded highways and airways. As our highways and airways become more and more congested, travelers need more choices in mobility. Rail provides an environmentally sound alternate mode of travel to the automobile.

Finally, there is the larger issue of State flexibility. One of the central principles of the surface transportation law is that State and local officials should have as much flexibility as possible to spend Federal-aid funds on their highest priorities.

Another important ISTEA principle is that the best transportation system

is an intermodal system. All modes of transportation must be considered when funding decisions are made. The Senators' amendment will give States the flexibility to consider the needs of passenger rail when they make their transportation funding decisions.

The amendment of the Senators from Delaware is in keeping with the flexibility that is so important for the success of the surface transportation law. It does not require the States to spend any of their ISTEA money on passenger rail. It simply provides the States with another tool to provide passenger rail service if they choose to do so.

It is my hope that the amendments by the Senators from Delaware will be approved.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WARNER. Mr. President, I would like to propose the following unanimous-consent request: That the present amendment be laid aside, and that the Senate then proceed to the amendment by the Senator from West Virginia, and if the yeas and nays are ordered on it, that the vote be set aside, and the Senate then proceed to debate on the amendment of the Senator from North Dakota [Mr. DORGAN], and at the conclusion of that all three votes occur in sequence but that should not occur before the hour of 7:40 p.m.

I now yield to the Senator from Montana.

Mr. BAUCUS. Mr. President, I inquire of my good friend and colleague from Virginia, I wonder if that could be further amended so that there could be other amendments considered prior to the time indicated in the event not all time is used on those two amendments, that is, the amendment offered by the Senator from West Virginia as well as the amendment offered by the Senator from North Dakota.

Mr. WARNER. Mr. President, I did not understand the Senator from Montana.

Mr. BAUCUS. It is possible that not all time will be used.

Mr. WARNER. That is correct. And if there is a period of time following the sequence of these amendments, then the Senate could turn to consideration of other amendments but the understanding is no votes would occur before the hour of 7:40 p.m.

Mr. BAUCUS. Right. Correct.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, will the vote on my amendment be up or down—up or down on the amendment?

Mr. WARNER. Mr. President, I would recommend that that be the case.

Mr. BYRD. I ask unanimous consent that the vote occur on the amendment.

The PRESIDING OFFICER. Is there objection to the request, as so modified? Without objection, it is so ordered.

Mr. WARNER. I yield the floor.

Mr. BYRD. Mr. President, I yield myself such time as I may require from the time allotted to me.

AMENDMENT NO. 1446

(Purpose: To require the withholding of Federal highway funds if a State fails to provide that any minor in the State who operates a motor vehicle and has a blood alcohol concentration above a specified level shall be considered to be driving while intoxicated or driving under the influence of alcohol)

Mr. BYRD. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER (Ms. SNOWE). The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. EXON, Mr. BUMPERS, Mr. BRADLEY, Mr. BIDEN, Mr. GLENN, Mr. HATFIELD, Mr. DODD, Mr. LAUTENBERG, Mr. JOHNSTON, Mr. SIMON, Mr. INOUYE, Mr. ROCKEFELLER, Mrs. BOXER, Mr. DASCHLE, Mrs. FEINSTEIN, Mr. MOYNIHAN, Mr. REID, Mr. PRYOR, Mr. HARKIN, Mr. STEVENS, Mr. HATCH, Mr. LEVIN, Mr. BAUCUS, Mr. WELLSTONE, Mr. DORGAN, Ms. MOSELEY-BRAUN, and Mr. PELL, proposes an amendment numbered 1446.

Mr. BYRD. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . OPERATION OF MOTOR VEHICLES BY INTOXICATED MINORS.

Section 158(a) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) OPERATION OF MOTOR VEHICLES BY INTOXICATED MINORS.—

''(A) FISCAL YEAR 1998.—If the condition described in subparagraph (C) exists in a State as of October 1, 1998, the Secretary shall withhold, on October 1, 1998, 5 percent of the amount required to be apportioned to the State under each of paragraphs (1), (2), (5), and (6) of section 104(b) for fiscal year 1998.

''(B) FISCAL YEARS THEREAFTER.—If the condition described in subparagraph (C) exists in a State as of October 1, 1999, or any October 1 thereafter, the Secretary shall withhold, on that October 1, 10 percent of the amount required to be apportioned to the State under each of paragraphs (1), (2), (5), and (6) of section 104(b) for the fiscal year beginning on that October 1.

''(C) CONDITION.—The condition referred to in subparagraphs (A) and (B) is that an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater when operating a motor vehicle in the State is not considered to be driving while intoxicated or driving under the influence of alcohol.''; and

''(2) in paragraph (2), by striking ''AFTER THE FIRST YEAR'' and inserting ''PURCHASE AND POSSESSION OF ALCOHOLIC BEVERAGES BY MINORS''.

Mr. BYRD. Madam President, I have offered this amendment on behalf of myself and the following Senators: Senators EXON, BUMPERS, BRADLEY, BIDEN, GLENN, HATFIELD, DODD, LAUTENBERG, JOHNSTON, SIMON, INOUYE, ROCKEFELLER, BOXER, DASCHLE, FEINSTEIN, MOYNIHAN, REID, PRYOR, HARKIN, STEVENS, HATCH, LEVIN, BAUCUS, WELLSTONE, DORGAN, MOSELEY-BRAUN, and PELL.

Mr. WARNER. Madam President, would the distinguished Senator from West Virginia add the Senator from Virginia as a cosponsor?

Mr. BYRD. I would be delighted. I ask unanimous consent that I might add the able Senator from Virginia, Mr. WARNER, as a cosponsor.

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

Mr. BYRD. Madam President, one of the most important and pressing problems on our Nation's highways is teenage drunk driving. Today I am offering an amendment that seeks to address this persistent, serious, and tragic problem. My amendment would require that the States adopt a ''zero tolerance'' standard for drivers under the age of 21. If States fail to adopt a driving-while-intoxicated [DWI] or a driving-while-under-the-influence [DUI] policy of .02 percent of blood-alcohol content for minors, they will lose 5 percent of their Federal highway construction funds in fiscal year 1998, and 10 percent of their Federal highway funds every year thereafter.

My amendment builds upon one of the most important—and successful—Federal initiatives related to alcohol and minors—a 1984 requirement that States adopt laws prohibiting the possession or purchase of alcohol by anyone younger than twenty-one years of age. Any State not in compliance by September 30, 1985, forfeited 5 percent of its Federal highway construction funds for that year and 10 percent of its Federal highway construction funds for each year of non-compliance thereafter. Before enactment of this law, only 18 States had a 21-year-old minimum drinking age. Today, all States have 21-year-old drinking age.

So that single action by the Congress and the States has significantly helped to reduce the carnage on our Nation's highways. The National Highway Traffic Safety Administration [NHTSA] has estimated that the 21-year-old drinking age has saved 8,400 lives since 1984. Further, in 1993, the last year for which statistics are available, the 21-year-old drinking age requirement is estimated to have saved $1.8 billion in economic costs to our society.

The Congress should now take the next step, and explicitly state, as a matter of law, that minors are not allowed to drink and drive. My amendment is simple and straight forward—since it is illegal for minors under the age of 21 to possess or purchase alcohol—that is, publicly possess or purchase alcohol—any level of consumption that is coupled with driving should be treated, under the requirements of each State's laws, as driving while intoxicated.

This amendment sets the right example, and tells our Nation's youth that drinking and driving is wrong; that it is a violation of law; and that it will be appropriately punished according to the laws of each State. To oppose this amendment is to send exactly the opposite message: namely, that it is acceptable and legal for a minor, who has been drinking, to drive a car, as long as that minor is under the DWI or DUI blood alcohol level for an adult over the age of 21.

In other words, my amendment corrects a glaring loophole in Federal law. Consider the example of a State that follows Federal law to the letter, and has made it illegal for a minor under 21 years of age to publicly possess or purchase alcohol. That same State, let us say, has a typical driving-while-intoxicated standard of a blood alcohol level of 0.10 percent. A minor in that State could consume alcohol in a private residence, and then legally drive an automobile, as long as the minor's blood alcohol level registers below 0.10 percent.

Under my amendment, the message to that minor is clear: you cannot drink and drive. Period. And, hopefully, this type of tough and absolute requirement in the law will encourage our young people not to drink at all.

As I explained, the passage of the Federal 21-year drinking age in 1984 led to the enactment of that standard by all 50 States. It is my expectation and hope that if my amendment were adopted, it would have similar results and increase the number of States that have zero tolerance laws from the current 24 States and the District of Columbia, to all of the States.

This zero tolerance amendment will save lives, and the life saved may be yours. It will save lives in the single most vulnerable group of drivers, namely teenagers. For the simple fact is that alcohol, when mixed with teenage driving habits, is a lethal combination.

First, let us examine the driving record of teenagers. As the chart to my left shows, of the percentage of drivers in fatal crashes who are exceeding the speed limit or traveling too fast for road conditions, teenagers are far more likely to be involved. This happens because teenagers are more likely, compared to older drivers, to engage in risky driving practices. A teenager's lack of experience and over-confidence can lead to accidents that often have fatal results, not only to teenagers, but also to their passengers or to pedestrians or to individuals in other automobiles, other innocent victims.

Teenagers are also involved in far more crashes than older drivers. As the chart to my left shows, a much higher percentage of teenagers than any other group is involved in police-reported crashes per million miles traveled.

Adding alcohol to this situation can make it a deadly combination for teenagers and for other drivers on the road. Quite simply, teenagers who drive while consuming alcohol are far more likely to speed, to be distracted by other passengers, to disregard road signs and conditions, and to drive recklessly.

As a result, according to NHTSA, 40 percent of the traffic fatalities in the teenage group are alcohol related. Forty percent of the traffic fatalities involving drivers, ages 15 to 20, are alcohol related. The result is carnage on our Nation's highways. Twenty-eight percent of 17- to 19-year-old drivers who were killed in 1993 crashes had high blood alcohol concentrations.

But our concern should not only be for the teenage drivers, but also for the innocent, law-abiding victims who are killed and maimed by teenage drunk drivers. In 1994, approximately 2,200 people were killed because of minors who were drinking and driving, and of that group, 1,600 were young people themselves.

Teenagers are generally inexperienced at both drinking and driving, so even small amounts of alcohol combined with driving can result in serious accidents and death. Approximately one-third of the 15- to 20-year-old drinking drivers in fatal crashes had blood alcohol content levels of less than 0.09 percent.

I would like to repeat that fact, as it underscores the importance of my amendment: one-third of all fatal crashes involving teenage drunk drivers involved a blood alcohol level below the DWI level used in most States, and even below a 0.08 or 0.09 DUI standard of some States. In fact, teenage drivers with blood alcohol levels of 0.05 to 0.10 percent are far more likely than sober teenage drivers to be killed in single-vehicle crashes—18 times more likely for males, 54 times more likely for females.

My amendment requires a ''zero tolerance'' policy, which is already the law in 24 States and the District of Columbia. I am advised that two other States have enacted legislation to provide for zero tolerance, but the legislation has not yet been signed into law, but it is expected to be within the course of the next week or so. This amendment recognizes that when teenagers drink, regardless of the amount, they have significantly increased the probability that their behavior will result in an accident, and a serious one at that. Perhaps fatal. My amendment recognizes that teenagers and alcohol—any amount of alcohol—is a dangerous, and often lethal, combination. We must be consistent, and condemn any level of drinking and driving by minors. To do anything less is to condone the illegal use of alcohol by minors.

The record shows that zero tolerance saves lives. As I have stated, 24 States have already enacted the zero-tolerance law which is called for in my amendment and it has proved to be very effective.

In Maine, North Carolina, Wisconsin, and New Mexico, which have adopted zero tolerance laws, lower blood alcohol limits for minors resulted in a 34 percent decline in nighttime fatal crashes among younger drivers. Various studies have shown that these zero-tolerance laws can reduce fatal accidents, and they will reduce fatal accidents. A 1992 Federal study in Maryland found that car accidents involving drivers under the age of 21 who had been drinking, declined eleven percent after the zero-tolerance law was adopted. Further, there was a 50 percent drop in accidents in areas where the penalties were promoted with a publicity campaign.

Whenever we lower the accident rate on our Nation's highways, we also directly lower costs to society. When someone is injured in a car accident, we all pay a price, either in the form of increased health insurance premiums, or more directly through Medicaid and other forms of State and Federal government assistance. This important point should not be ignored: At the very time that we are trying to lower the deficit, we should not leave a loophole in Federal law that allows teenage drunk drivers to cause accidents that increase Federal health and income-support costs.

The abuse of alcohol continues to be one of the most pressing problems of our society, and the consequences can be felt throughout our Nation—at home, at work, and in public places. While our society has made great strides in recent years, we have barely begun to deal with the problem. And there is no better place to start than with our Nation's youth.

Our Nation's young people are encouraged and tempted to consume alcohol by the movies they see, by the TV commercials, by the magazines they read, and by the huge flow of print advertisements for alcoholic beverages.

But it is adults who must set the example for what is appropriate behavior. And the adults are foremost the parents of these young people. We have a responsibility to the Nation's youth to help prevent drunk driving by adopting this amendment. We should take this positive step—a step that involves clear and decisive action, and not just rhetoric—and help get teenage drunk drivers off the roads.

When it comes to substance abuse in this Nation, alcohol is our biggest scourge. Almost 14 million Americans over 18 are alcoholics. Another 1.3 million suffer alcohol dependency. Overall, close to 8 percent of adults have a problem with liquor, costing the economy an estimated $100 billion every year in lost productivity and in health care costs.

So the very least we can do as a Nation that purports to care about the health, safety, and well-being of its people is to try to nip this alcohol plague in the bud by discouraging the early drinking that often results in later addiction or alcohol dependency.

We have heard a lot of debate during consideration of this legislation about personal freedoms and States rights. But if we, who claim to be national

leaders, decline to try to set even bare minimum standards and guidelines for behavior which is dangerous, destructive, and unacceptable for our young people, why have we chosen national public service as a vocation in the first place? At the very least, we should not abdicate our leadership role when it comes to our Nation's most precious resource, its young people. If we do not have the courage to take a stand on this most obvious of issues—drunk driving by minors—we will have surely failed, not only in our official capacity, but also in a larger moral sense as well.

I commend President Clinton for speaking out on this matter.

I ask unanimous consent that a letter transmitted to me today signed by the President, and also other materials that are relevant to the subject about which I have been speaking, be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, June 21, 1995.

Hon. ROBERT BYRD,
U.S. Senate,
Washington, DC.

DEAR ROBERT: Drinking and driving by young people is one of the nation's most serious threats to public health and public safety. I am deeply concerned about this ongoing tragedy that kills thousands of young people every year. It's against the law for young people to drink. It should be against the law for young people to drink and drive.

As you know, earlier this month, I called on Congress to make Zero Tolerance the law of the land. I support your amendment to the National Highway System Designation Act, which would achieve this goal.

A decade ago, we decided as a nation that the minimum drinking age should be 21. In 1984, President Reagan signed bipartisan legislation to achieve this goal, and today all 50 states have enacted such laws. Our efforts are paying off—drunk driving deaths among people under 21 have been cut in half since 1984.

But we must do more. Twenty-four states and the nation's capital have enacted Zero Tolerance laws that consider a driver under age 21 to be ''driving while impaired'' after just one full drink of alcohol. These laws work—alcohol-related crashes involving teenage drivers are down as much as 10–20 percent in those states. If all states had such laws, hundreds more lives could be saved and thousands of injuries could be prevented.

I commend your efforts today, and I urge the Senate to pass your amendment.

Sincerely,

BILL CLINTON.

From Advocates for Highway and Auto Safety.

Re zero tolerance for youth fact sheet.

Federal law (the National Minimum Drinking Age Act of 1984) requires every state to make purchase or public possession of alcoholic beverages by those under age 21 illegal, or the state loses a portion of its federal highway funds. As a result, all states passed laws making 21 the legal drinking age.

The National Highway Traffic Safety Administration (NHTSA) credits increases in the legal drinking age with preventing close to 1,000 traffic deaths a year. (Public Health Reports Nov-Dec 1994, Hingson, Heeren and Winter)

As of April 1994, 29 states and DC passed lower blood alcohol concentration laws for youthful drivers. 26 states and DC have zero tolerance (.00, .01 or .02) laws.

Youths have a lower tolerance for alcohol than adults and their driving is impaired with any consumption.

Motor vehicle crash injuries are the leading single cause of all injury-related youth fatalities, followed by homicide; In 1993, 5,905 youths age 15–20 died in motor vehicle crashes. 2,364 of those deaths were alcohol-related.

The National Institute on Drug Abuse reports that almost one-third of high school seniors binge drink.

A 1994 study published in the November-December issue of Public Health Reports comparing 12 states with lower tolerance laws for youth to neighboring states without such laws showed that zero tolerance laws are likely to reduce youth fatalities significantly whereas lower tolerance laws (.04 or .06) do not.

A comparison of drivers involved in single vehicle fatal crashes revealed that each .02 percent increase in blood alcohol concentration nearly doubled the risk of fatal crash involvement for all drivers. (Public Health Reports)

According to NHTSA seven percent of licensed drivers are ages 15–20. But 15 percent of drivers in fatal crashes are between the ages of 15 and 20, and 21 percent of deaths in crashes involve a driver of that age.

A study of the first four states to have reduced legal blood alcohol concentration for youths, comparing them to four neighboring states which did not reduce youth legal BAC revealed a 34 percent decline in night fatal crashes among adolescents in those states with reduced legal BAC for youths.

Teen drivers are inexperienced. They are more likely to speed and take other risks on the road. Their inexperience and risk taking combined with impairment from alcohol consumption markedly increase their chances for crashes.

Mr. BYRD. I urge the Senate to adopt my amendment. I reserve the remainder of my time.

I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LAUTENBERG. Mr. President, I rise in support of Senator BYRD's amendment to the national highway system bill relating to zero tolerance for under-age drivers.

In 1984, I sponsored legislation that required States to enact laws making it illegal for anyone under the age of 21 to purchase and publicly possess alcoholic beverages.

I sponsored this legislation for one simple reason—our children were dying on our highways. And they were dying for the sake of a drink.

Studies have shown that alcohol—even at very low levels—can cause young people to lose their judgment and behave without regard to the risks of driving at about twice the rate of drivers 21 or older.

Mr. President, since the national 21 drinking age was enacted nationally, 9 thousand lives have been saved.

And since 1975, when States first started enacting laws like this one locally, as estimated 10,000 lives and over $30 billion in economic costs have been saved.

In 1993 alone, 2,364 youths—young people between 15 and 20 years old—died in alcohol-related crashes.

And 23 percent of the 15- to 20-year-old drivers who were involved in these fatal crashes had some alcohol in their blood.

So how do we keep our children from killing themselves when studies show that over 95 percent of American adolescents will have experimented with alcohol by the time they are seniors in high school?

I believe Senator BYRD's amendment can help us do just that.

Mr. President, there is mounting evidence which demonstrates that blood alcohol concentration levels as low as .015 can impair a person's ability to make the kind of judgments needed to operate a motor vehicle safely.

And as I indicated before, the evidence is clear: young drinking drivers behave differently from older drinking drivers. For young people, more than adults, alcohol—even at very low levels—may cause them to lose judgment and behave without regard to the inherent risks of driving at about twice the rate of drivers 21 years or older.

But despite the evidence, many States still use the same standards to determine if a young person is under the influence as they apply to older drivers.

That does not make sense.

At present 24 States and the District of Columbia have laws which allow zero tolerance for those under 21 who are caught drinking and driving.

These laws consider young drivers in violation the law if they are caught with a .02 BAC level or more. A .02 or .01 BAC level is considered zero tolerance given the present level of technology of alcohol breath-testing devices.

There are an additional eight States that have laws which set zero tolerance for drivers less than 18—or have laws that set lower allowable BAC levels for underage drivers.

A Maryland study showed a 21-percent reduction in alcohol-related traffic accidents involving youth under the age of 21 after it enacted its .02 BAC law for younger drivers. When Maryland combined the .02 BAC law with a public information campaign, alcohol-related traffic accidents involving youth under the age of 21 dropped by 50 percent.

These are impressive statistics. They demonstrate the kind of impact that Senator BYRD's amendment will have on the safety of the American public, particularly young Americans.

The human tragedy of teenage drunk driving is measured in the funerals of too many bright and promising young people who made the fatal decision to drink and drive—and too many funerals of law-abiding citizens who were victimized by drunk drivers.

The national 21 minimum drinking age was a step in the right direction. We need to keep going. The Byrd amendment does that. It will save lives—young lives.

I encourage my colleagues to support the Byrd amendment.

Mr. WARNER. Madam President, the distinguished Senator from Montana and I have conferred as managers. We see no one who wishes to speak at this time on the Byrd amendment. Therefore, I ask unanimous consent that the time remaining on the Byrd amendment be 20 minutes, and that it be equally divided between the Senator from West Virginia and the managers of the bill.

Then the Senate would now proceed to the amendment of the Senator from North Dakota.

Mr. BYRD. Madam President, reserving the right to object, I will not object, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1445

(Purpose: To require the transfer of certain Federal highway funds to a State highway safety program if a State fails to prohibit open containers of alcoholic beverages and consumption of alcoholic beverages in the passenger area of motor vehicles)

Mr. DORGAN. Madam President, my understanding of the legislative circumstances are that we have set aside the amendment offered by the Senator from West Virginia, in which case I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 1445.

Mr. DORGAN. I ask unanimous consent further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . OPEN CONTAINER LAWS.

(a) ESTABLISHMENT.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 161. Open container requirements

"(a) PENALTY.—

"(1) GENERAL RULE.—

"(A) FISCAL YEAR 1998.—If, at any time in fiscal year 1998, a State does not have in effect a law described in subsection (b), the Secretary shall transfer 1.5 percent of the funds apportioned to the State for fiscal year 1999 under each of paragraphs (1), (2), and (3) of section 104(b) to the apportionment of the State under section 402.

"(B) FISCAL YEARS THEREAFTER.—If, at any time in a fiscal year beginning after September 30, 1998, a State does not have in effect a law described in subsection (b), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under each of paragraphs (1), (2), and (3) of section 104(b) to the apportionment of the State under section 402.

"(b) OPEN CONTAINER LAWS.—For the purposes of this section, each State shall have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State. If a State has in effect a law that makes the possession of any open alcoholic beverage container unlawful in the passenger area by the driver (but not by a passenger) of a motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers, the State shall be deemed in compliance with subsection (a) with respect to the motor vehicle for each fiscal year during which the law is in effect.

"(c) FEDERAL SHARE.—The Federal share of the cost of any project carried out under section 402 with funds transferred under subsection (a) to the apportionment of a State under section 402 shall be 100 percent.

"(d) TRANSFER OF OBLIGATION AUTHORITY.—If the Secretary transfers under subsection (a) any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall allocate an amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out only projects under section 402 that is determined by multiplying—

"(1) the amount of funds transferred under subsection (a) to the apportionment of the State under section 402 for the fiscal year; and

"(2) the ratio of the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs to the total of the sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to any obligation limitation) for the fiscal year.

"(e) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other law, no limitation on the total of obligations for highway safety programs carried out by the Secretary under section 402 shall apply to funds transferred under subsection (a) to the apportionment of a State under section 402.

"(f) DEFINITIONS.—In this section:

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning provided in section 158(c).

"(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning provided in section 154(b).

"(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' has the meaning provided in section 410.

"(4) PASSENGER AREA.—The term 'passenger area' shall have the meaning provided by the Secretary by regulation.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"161. Open container requirements.".

Mr. DORGAN. Madam President, I listened with interest to my colleague, the Senator from West Virginia, Senator BYRD, and I have added my name as a cosponsor to his amendment. I think it is good legislation. I think it will save lives. I am pleased to support him and I hope that my colleagues in the Senate will vote for the legislation he has offered.

I offer an amendment dealing with the same subject, the subject of drinking and driving. My amendment deals with the subject of open containers of alcohol in vehicles.

Sunday was Father's Day in our country, a day that many remembered fondly with our families. Sunday was also a day in which eight people were killed on a California highway, two of them toddlers, four of them children, two adults: a 2-month-old named Antonia, a 2-year-old named Carina, a 3-year-old named Suleima, a 9-year-old named Jairo.

These children were in a car last Sunday on a California highway. I read about it Monday morning. A drunk driver came down the highway and cut into the back of the car that these children were in at a high rate of speed, apparently, in a reckless manner, according to the newspaper accounts. The car began to flip and became a fireball. These six children died on Father's Day in that accident.

The person that pulled in apparently was driving a pickup truck, according to the newspaper accounts, and was drunk. The driver of the truck had been convicted previously of drunk driving and was driving drunk on Father's Day without a license, and kills six children and two adults.

I point this out only because I read about it Monday morning and understood, again, the horror of it. It happens every day, all day, all across this country. Every 30 minutes someone else gets a telephone call or a knock on the door saying, "Your loved one has been killed because someone in this country was driving drunk."

I received a telephone call at 10:30 in the evening telling me that my mother had been killed in a drunk driving accident by a fellow who was fleeing from the police. Never in my life will I forget that telephone call and how I felt about it. I had received calls before. My sister's son, a pizza delivery boy, was also killed. That call came late at night. My cousin's son was killed a couple of weeks ago, the weekend of his high school graduation. He did not cross the stage because he was in a car that was hit by a train, driven, apparently, by someone who also had been drinking.

Everyone understands the pain and the agony of losing friends, acquaintances, and loved ones in accidents on America's roads. And all too often we understand the pain of losing someone in an accident that is caused by someone, also, who drank.

This is not some mysterious disease for which we do not understand the cure. We understand what causes these deaths and we understand how to stop it. People who drink and drive commit murder in this country. We ought not just blithely ignore it any longer.

I do not think my colleagues, know that according to the Department of Transportation, there are six States in America where you can get behind the wheel of your car, use your right hand to put the key in the ignition, and close your left hand over the bottleneck of a bottle of whiskey and drive

on down the road and drink your whiskey and be perfectly legal. It is not a problem, because it is not against the law to be able to drink and drive in those States. In over half the States in this country, if the driver cannot drink, the rest of the folks in the car can have a party and pass the bottle around as they drive down the street.

My own view about drinking and driving in this country is that we ought to decide to separate the act of drinking from the act of driving.

I had hoped one day that this Senate will decide to develop an attitude about drinking and driving like the Europeans have. In most European countries, if you go out and see others out at a bar someplace, or a pub, you can be sure that one person out of those five or six people that are together is not drinking.

Why? Because they understand the penalties are far too severe to risk getting picked up for drunk driving. You just do not dare chance it. Most of those countries will not tolerate it. You do not even want to think about the penalty for drunk driving. In our country, all too often, it is a slap on the wrist, and then back to the road.

I was in a car with my late daughter that was hit by a driver so drunk he could not drive after he hit us. He totaled our car. Fortunately, neither of us were hurt. After hitting our car he kept driving and drove about half a block more into a streetlight, where his car stopped. He was too drunk to get out of the car.

Of course, he was not hurt because most often in those accidents it is the other people who are killed. The people who are drunk, by and large, do not get hurt very often.

But the point is, we all understand what is happening on our roads. It is carnage on America's roads.

Now, I do not want to go on a vacation and I do not want the Senator from West Virginia or the Senator from Montana to go on vacation, and drive from one State line to another State and discover that on the public roads in this next State that you are driving into, built in part with Federal funds, we have folks driving toward us who are able to drink in the car. Or we have folks driving toward us with four or five other people in the car, having a party, and that State finds that it is fine.

It is not fine with me. When we spend the billions of dollars to invest in our road system in this country, we ought to decide it is a national purpose to tell the people in this country that it does not matter which line you have crossed, what State you are moving through, in this country we made a decision, you shall not have open containers of alcohol in your car, in your vehicle. It is a national decision. This is a national problem.

My amendment, Madam President, is fairly simple. My amendment would require the States in this country to enact open container laws that prohibit open containers in vehicles.

If a State does not comply within 2 years, then 1.5 percent of its Federal highway construction funds would be transferred to the State's allocation amount for highway safety programs. It does not take the money away from the State. It simply does what we have done previously in the seatbelt laws and says if you do not conform, then 1.5 percent moves from the construction program over to the highway safety program.

If the State does not comply after September 30, 1998, then 3 percent of the money would be transferred to the safety program.

This amendment utilizes the identical incentives to encourage States to prohibit open containers of alcohol as it does on the seatbelt issue.

I know we will likely hear from some who come to this Chamber later 100 reasons why this should not be done. We have always heard reasons why we should not interfere.

This country must soon wake up and decide, as other countries already have in many parts of the world, to tell people who drive drunk that they are murdering people on our highways and we will no longer permit it. We think there should be certain sanctions, tough sanctions, tough punishment for people who drive drunk. I am suggesting that no State should be able to tell the citizens in its State or elsewhere that it is fine, when you enter our State line, to drink and drive. Or it is fine to have alcohol in the car and have other people drinking. At least, it is not fine with me.

We are heading, now, toward the Fourth of July weekend. It is one of the deadliest alcohol-related traffic holidays in our Nation. That is the case every single year. Madam President, 55 percent of the total traffic fatalities on July 4, 1993, the last year for which we have statistics, were alcohol related.

From 1982 to 1993—I came to the Congress in 1981; the person in the chair from Maine I suspect came in 1980 or 1982, somewhere in that period, to the U.S. House of Representatives—since that time, roughly 266,000 Americans have been killed in alcohol-related traffic accidents; 266,000 Americans in an 11-year period. It ought not continue. We ought to stop it and we ought to decide to have the courage as a Congress to tell everybody in this country do not even think about driving if you are drinking. Alcohol and driving do not mix and will not be tolerated anywhere in this country—anywhere in this country.

If the Congress would this evening enact the legislation I am proposing, we would, I think, send a signal in this country that we intend to be tough with respect to this issue. Madam President, 26 States do not have open container laws at the present time, according to the National Highway Traffic Safety Administration. I mentioned that six States do not have laws prohibiting drinking and driving at the same time by drivers. I think there is a way for us to speak to that, and I hope we will.

There are as many reasons as there are people around here to find them that we should not do this. There are 266,000 reasons, 266,000 dead Americans in the last 11 years, whose memory we probably ought to honor today by passing this legislation. I cannot claim how many Americans we will save, how many lives we will save if we do the right thing in our country and tell people you cannot drink and drive; you cannot have open containers in your vehicle. But I know in my heart we are talking about tens of thousands of people, year after year, who will not lose their lives because someone was driving drunk.

There are at least six children in a morgue tonight who died on Father's Day who should not have died: Carina, Antonia, Suleima, Fidela, Jairo, and Omar. I name only six because it would take too long to name the number of people who died from alcohol-related accidents since Sunday, because it is every half hour, every hour of every day someone is killed because of a drunk driver. We can stop it if we will decide to exhibit the courage to stand up on a national basis and say this is our national message: Do not drink and drive in this country.

Madam President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Montana.

Mr. BAUCUS. Madam President, I suggest the absence of a quorum and request the time be charged equally to both sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DORGAN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Madam President, I ask unanimous consent the time be taken from both sides equally during the quorum call.

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

Mr. DORGAN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1446

Mr. BAUCUS. Madam President, I would like to make a couple of comments on the amendment offered by the Senator from West Virginia.

I first want to commend the Senator from West Virginia. This is a very good amendment. It goes to the heart of the problem of teenage drinking. I commend him for offering this amendment. This amendment will help us reduce some of the slaughter on our Nation's highways, particularly the tragic deaths of teenagers.

Mr. BYRD. Madam President, I thank the distinguished Senator. I am very pleased to have him as a cosponsor.

Mr. BAUCUS. I thank the Senator. I might say to the Senator, we are very proud in Montana, particularly in Yellowstone County, of a program called It's Your Choice. It is sponsored by the Yellowstone County commissioners who provide the funding. A fellow named Dick Taylor, who is the head of the former ambulance service in Yellowstone County, saw so many deaths he finally said, ''I need to do something about all this, particularly the deaths of teenagers.'' This program, It's Your Choice simulates crashes, including the police and ambulances coming to the scene of an accident. It is all realistically reenacted in high schools in Billings, MT.

As a consequence, the number of teenage deaths attributable to alcohol in traffic accidents has been reduced. Also the State of Montana has recently passed legislation providing the blood alcohol content cannot be more than .02 percent for teenagers.

The Senator from West Virginia is leading the effort for a national .02 alcohol content for youthful drivers, and I commend the Senator for his efforts.

Mr. BYRD. I thank the Senator, and I also thank the Senator from Virginia.

Mr. WARNER. Madam President, I join my distinguished colleague from Montana in commending my distinguished colleague from West Virginia.

Mr. BAUCUS. Madam President, I ask unanimous consent the pending amendment be temporarily laid aside so I might be able to call up another amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The pending amendment is set aside.

AMENDMENT NO. 1447

(Purpose: To strike the section repealing restrictions on toll facilities)

Mr. BAUCUS. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for himself and Mr. MCCONNELL, proposes an amendment numbered 1447.

Mr. BAUCUS. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Beginning on page 28, strike line 15 and all that follows through page 29, line 14.

Mr. BAUCUS. Madam President, this amendment is offered on behalf of myself, as well as Senator MCCONNELL. As I am sure my colleagues know, many of us are very pleased with the progress on this bill. It is a vital step in developing a national transportation strategy. It makes important gains in reducing some of the regulatory burden in our States, something we are all interested in doing.

But there is one item here in this bill which concerns me regarding tolls. The amendment I am offering today is very simple. It seeks to maintain current law which prohibits States from converting toll-free interstate highways into toll roads.

Let me explain why this is needed. Current law says States cannot put tolls on an interstate highway unless it was built without using Federal funds. Current law also allows States a little more flexibility on noninterstate highways. They can impose tolls on those roads, but only if it is done in conjunction with major repair or reconstruction.

The theory is you should get something for your money. Unfortunately, the language in the bill removes both of these restrictions. The bill would allow States to place tolls on any Federal highway, including the interstate highway system, regardless of whether or not the road is undergoing repair work.

I think that is a mistake. My amendment strikes this language from the bill. States planning major repairs to interstate highways can still place a toll on that road and use the revenue to pay for the repairs. That makes sense. Once a State pays for the repairs using tolls, further toll revenues can be used for other transportation purposes.

My amendment would prevent States from using toll roads as cash cows; that is, putting tolls on the road just to generate revenue. Drivers already pay a pretty steep gasoline tax in most States, and combined with the Federal-State portion it gets pretty high. I do not think we need yet another tax on top of that.

I urge my colleagues to support the amendment.

I ask unanimous consent that letters supporting the amendment from the American Trucking Association, the Highway Users Federation, and the National Association of Truck Stop Operators be printed in the RECORD.

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

INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
Washington, DC, June 21, 1995.

DEAR SENATOR: The International Brotherhood of Teamsters urges you to support the effort by Senators Baucus and McConnell to strike section 117 of the National Highway System Bill (S. 440). Section 117 would allow states to impose tolls on interstate highways.

Section 117 is an unnecessary tax increase on the trucking industry and the motoring public. Highway users already pay millions of dollars in taxes annually into the Highway Trust Fund for the construction and repair of interstate highways. Consequently, passage of Section 117 would put the Senate on record as supporting the ''double taxation'' of highway users. Passage of this additional highway tax will place an economic burden on both the transportation and tourism industries. We encourage you to vote to strike Section 117.

We also encourage you to vote for the amendment likely to be offered by Senator Exon that would establish standards for truck trailer lengths under the NAFTA. We support the Senator's proposal to limit single trailer lengths to fifty three feet. It is imperative that U.S. highway safety standards are not compromised during negotiations to establish common truck safety standards under the NAFTA. Senator Exon's proposal is a critically important step in ensuring that we preserve the highest highway safety standards possible in North America.

Sincerely,

WILLIAM W. HAMILTON, Jr.,
Governmental Affairs Department.

HIGHWAY USERS FEDERATION,
Washington, DC, June 15, 1995.

Hon. MAX BAUCUS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BAUCUS: The Majority Leader moved to consideration of S. 440, the ''National Highway System Designation Act of 1995,'' this afternoon. With fewer than 50 congressional working days remaining before the September 30 NHS funding deadline, prompt action on this measure is urgently needed. We want to inform you of our views on two specific amendments that may be offered during floor consideration of S. 440.

Tolls—we understand Senators Baucus and McConnell will offer an amendment to strike the section of S. 440 that would allow tolls to be placed on existing, free Interstate highways, We strongly support the Baucus/McConnell amendment. The prohibition against tolls on Interstate highways has existed for 40 years. Nearly 100% of the Interstate System is completed and open to traffic, paid for by highway users. To allow tolls now on existing, free Interstates is akin to charging a homeowner rent. Highway users have paid for construction of the Interstates and continue to pay for Interstate maintenance through Federal and state user fees. In addition, tolls on Interstate highways would seriously restrict the flow of interstate commerce and the mobility that American families and businesses depend on and have come to expect.

Amtrak—we understand Senator Roth may offer an amendment to make Amtrak routes eligible to receive Federal highway funds. We would strongly oppose the Roth amendment. Amtrak carries just three-tenths of one percent (0.3%) of all intercity passenger miles travelled and no freight. By contrast highways carry over 80% of intercity passenger miles and almost 80% of the dollar volume of all freight moved in the U.S. With a $290 billion backlog of road and bridge

needs, it makes no sense to subsidize passenger rail service with our limited highway dollars.

The NHS is vital to America's economic and defense needs. We hope the bill approved by the Senate will garner the broad, bipartisan support that this important program deserves.

Sincerely,

THOMAS J. DONOHUE,
President & CEO, American Trucking Associations, Inc.
WILLIAM D. FAY,
President, Highway Users Federation.

NATSO, INC.,
Alexandria, VA, June 20, 1995.

Hon. MAX BAUCUS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BAUCUS: On behalf of NATSO, Inc., the professional and legislative representative of America's travel plaza and truckstop industry, I am writing to express grave concerns about a provision in S. 440 that would allow states to establish tolls on the Interstate highway system. I understand that you and Senator McConnell are offering an amendment to delete this provision, and the eight NATSO member locations in Montana as well as the more than 1,070 member locations nationwide strongly support your efforts.

NATSO opposes this provision for several reasons. First, highway users have already paid for the Interstate system. Every time fuel is purchased, motorists pay a tax into the highway trust fund that goes to support the Interstate system. Allowing the states the opportunity to collect tolls from Interstate travelers is nothing more than a new tax on the highway user. The Interstate traveler should not be forced to pay again for something already purchased.

Also, this provision will undoubtedly shift traffic from Interstate highways, proven to be the safest and most efficient, to secondary roads that have not been designed to handle large volumes of traffic. This proposal will increase congestion and traffic accidents. It will also devastate the truckstops, travel plazas and thousands of other roadside businesses that provide goods and services to the Interstate traveler.

Finally, if more transportation funds are needed, we believe that Congress should spend down the $19.6 billion languishing in the highway trust fund. Instead of being used for its intended purpose, the highway trust fund is currently held hostage to make the federal deficit appear smaller. Asking the highway user to pay more—at a time when tax money already collected is not being spent—is wrong.

Again, NATSO strongly supports your amendment to delete this toll provision from S. 440. We will gladly provide assistance to you in your efforts to pass this amendment.

Sincerely,

W. DEWEY CLOWER,
President.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, the managers are going to accept this. I see the presence of the cosponsor of the amendment on the floor. Following his remarks, I will then speak to the pending amendment.

So I yield the floor.

Mr. McCONNELL. Madam President, I thank my friend from Virginia, and I want to commend the Senator from Montana for the amendment he has offered of which I am the principal cosponsor.

I think he has adequately described the rationale for the amendment. Essentially, it is that we do not want the States to turn the interstate system into a way to raise revenue for themselves. That is not the basis upon which the Interstate Highway System was constructed.

This amendment would guarantee that could not happen. I am proud to be the principal cosponsor of this amendment.

Madam President, this amendment would strike section 117 of this bill. The provision I would like to remove is one that repeals the prohibition against States imposing tolls in Federal-aid highways, including the Interstate System.

To put it more simply, my amendment continues the ban on State tolling of federally built highways. Or to say it even more plainly, if you gave at the office, you should not have to give again on the road.

The Interstate System had helped to open up this vast country, removing all limitations on mobility. However, if section 117 is not removed from the bill, it could potentially turn our Interstate System into a heavily milked cash cow, where States squeeze additional dollars out of road that have already been paid for, through the excise tax on gasoline.

From sea to shinning sea, we could find our Federal highways transformed into elongated parking lots, bisected at regular intervals by toll plazas.

For the past 39 years, highway users have contributed to the highway trust fund, perhaps begrudgingly, but with the knowledge that these funds would be used for the construction and upkeep of the Nation's highway infrastructure. This national contract with highway users was establish in 1956, with the Federal-Aid Highway Act. As we all know, 90 percent of trust fund revenues comes from the ever-increasing excise tax on gasoline. But it is fed by other revenue sources as well, including a sales tax on tires, trucks, and buses, as well as taxes on truck usage.

In short, Madam President, if it moves on a highway, we have already taxed it—and we've taxed the gasoline it runs on. America's drivers are not exactly suffering from a dearth of taxes and user fees.

Since 1956, when the highway trust fund was first established, American motorists have contributed $278 billion in net revenue to the fund. In return, highway users have been afforded free access to the Interstate System, unencumbered by a gauntlet of toll plazas. Congress should honor the contract it made with motorists—and eliminate the loophole contained in section 117.

My amendment will ensure that our Interstate System remains free from the double taxation of tolls, which would disproportionately affect poorer Americans.

Aside from my strong opposition to the double taxation of highway users, I also believe this toll provision is bad economic policy. It could potentially ruin hundreds of small businesses that cater to highways users. Should States decide to exact their pound of flesh at every highway exit, communities and business will be severely harmed as they are cut off from their customers.

As someone who has personally traveled thousands of miles on Kentucky roads, I am all too familiar with the impact of highway tolls. In Kentucky, economic development adjacent to highways and parkways did not occur until these roads became toll-free. Only then did businesses blossom to meet the needs of tired, hungry, and road-weary motorists.

Not only would many small businesses be crippled, but motorists and truckers would no longer benefit from highly competitive roadside services. Instead, users would essentially be forced to accept the overpriced gasoline and food concerns which would be given virtual monopoly rights at tolling areas.

This provision will of course add to the cost of trucking, travel, and commerce—all of which would be reflected in bottom-line prices at the grocery store and elsewhere.

To suggest that tolls are paid only by highway users is a gross economic oversimplification. Toll roads add to the cost of any goods shipped cross-country. These same costs will hit the tourist industry of every State hard, as families are forced to stay closer to home or forego travel altogether.

I know that, in Kentucky, tourism would be substantially reduced by State tolling of Federal highways, for our State is a crossroads for interstate travel.

Ever since the 1950's, when the United States embarked on its mission of establishing the Dwight D. Eisenhower Interstate Highway System, these roads were meant to be toll-free. If toll booths were suddenly erected on Federal highways, traffic would snarl up, thereby adding to the cost and travel time. Anybody who has traveled a toll road can tell you that exists are not always located at every crossroad.

In fact, on many toll roads, it is not uncommon for exits to be separated by 20 miles or more. If tolls are permitted on Federal highways, the communities and businesses that have developed around highway access points could be cut off. The network of roads, exits, and intersections are a vital part of the national highway contract. It is unacceptable—and potentially disastrous, to change the terms of our Federal agreement.

Finally, tolls could result in an increase in air pollution. It is widely accepted that vehicles operate more efficiently at steady speeds. Long lines and stop-and-go traffic caused by toll plazas will needlessly pump greater amounts of pollution into the atmosphere.

We are told that proponents of toll roads are developing new, high-technology methods of collecting tolls—without the safety, congestion, and pollution problems caused by toll roads. I do not know whether such an idea should be met with admiration or alarm. The notion that the Government could stick huge barcodes on every vehicle, which then would be read by high-speed laser scanners at checkpoints, does not exactly elicit cheers of enthusiasm for the advances of modern technology.

Frankly, whether a toll is taken by a live human being or a high-technology scanner is a bit like making a distinction between holding up a bank in person or embezzling funds via computer. In either case, the loss of funds is felt just as acutely.

Madam President, I am not alone in this view. This proposal is also strongly opposed by motorists. In fact, a 1994 poll taken by Triple-A found that fully two-thirds of its members opposed this toll idea. I have letters from both the Louisville and Lexington chapters of Triple-A opposing this measure.

Madam President, I appreciate the arguments of toll proponents that there is a real need to insure funding for our infrastructure needs. I do not think there is a Member in the Senate who does not believe our transportation infrastructure is of the utmost importance to national commerce and competitiveness.

However, this toll provision is an underhanded money grab that breaks the contract with motorists established through the Intrastate System. This single provision will cripple our ability to transport goods in a timely and cost-effective fashion.

There are other ways to fund infrastructure development that will not require taxing motorists again for something they have already paid for. Congress needs to provide for the full funding of ISTEA and put an end to the gas tax diversion. The $9 billion in gas tax revenue that has been diverted elsewhere in the budget would go a long way toward improving the condition of our roads, bridges, and tunnels.

America has paid for these roads. Let Americans use them—without added, hidden costs. Let us strike section 117 out of the bill, and protect motorists from new and ingenious ways of extracting more revenue from our Federal Highway System.

Madam President, I ask unanimous consent that several letters from various groups in support of the amendment that Senator BAUCUS and myself have offered be printed in the RECORD.

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

AMERICAN AUTOMOBILE ASSOCIATION,
Washington, DC, June 15, 1995.

Hon. MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCONNELL: On behalf of AAA's 37 million members, I urge you to introduce an amendment to S. 440, The National Highway System Designation Act of 1995, that would repeal the provisions allowing tolling of existing highways.

''The American Automobile Association is against toll roads as a general principle . . . believing all highway facilities should be toll-free. AAA particularly objects to the imposition of tolls on any existing toll-free highway . . . .'' (AAA Policies, April 1995–96)

Our opposition to tolls is longstanding:

We must have roads suitable and adequate for the movement of modern motor traffic with safety. There must be multiple-lane highways with opposing traffic streams divided. They must be free and not toll roads. . . . (AAA ''Bill of Rights,'' 1936).

The American Automobile Association reiterates its opposition to transcontinental toll superhighways; also to privately-owned toll roads . . . . (November, 1938).

The American Automobile Association reiterates its opposition to toll highways. (November, 1939).

The American Automobile Association vigorously opposes the levying of tolls on existing free highways. (November, 1940).

The Association believes that the National System of Interstate Highways should be entirely free of tolls . . . . (AAA Policies 1949, 1950, reprinted January, 1951).

Thank you for considering AAA's request. Say Yes to Just NHS.

Sincerely,

RICHARD HEBERT,
Acting Vice President,
Public and Government Relations.

AAA BLUE GRASS/KENTUCKY,
Lexington, KY, June 15, 1995.

Hon. MITCH MCCONNELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCONNELL: On behalf of the 118,000 AAA members we serve in central and eastern Kentucky, AAA Blue Grass/Kentucky supports S. 440 which would establish a National Highway System. However, we strongly object to any toll provision in the bill.

We oppose a toll provision for several reasons:

Excessive cost.—Historically, toll-free roads have cost the motorist about one cent per mile; new toll roads will cost about 10 cents per mile. Admittedly, all new road construction is going to be more expensive, but toll roads will probably cost 3 to 4 times as much as toll-free roads because of bond interest charges and toll collection costs.

Double taxation.—If gas taxes are used to construct new toll roads, motorists will pay twice—once at the pump, and once at the toll booth.

Breach of Trust.—Highway users have paid literally hundreds of billions of dollars to construct the nation's highway system; they should not now be charged a toll to use it.

Collection Inefficiency.—Currently 10–20% of toll revenues are needed for the collection process while only one percent of motor fuel taxes are devoted for that purpose.

Inconvenient Access.—Toll roads often provide few entrances and exits in order to minimize the number and therefore the costs of toll personnel. Users can't get off the road at convenient places and people in small communities cannot use toll roads built right next to them.

Motorist Irritation and Delay.—Congestion at toll plazas often causes long lines of cars, much to the consternation of the motoring public.

Closed System Economics.—Toll road users are locked into higher-price gas stations, food establishments and other services.

Toll facilities are self-perpetuating.—Agreements to make facilities toll-free after debt service is paid seldom are implemented. For instance, there are still 4,700 miles of toll roads, bridges and tunnels on the interstate system, with little likelihood that many of these facilities will become toll-free.

Neglect of the toll-free system.—Inevitably, construction of toll roads will lead to toll-free roads not being built in the same transportation corridors. Maintenance of free roads parallel to toll roads may also suffer.

Undermining the Federal Highway Trust Fund.—Increased tolls would weaken pressure on Congress and the administration to spend the money in the Highway Trust Fund.

We appreciate your consideration of our views.

Regards,

KATHY GROSS,
Manager, Marketing.

AAA KENTUCKY,
June 15, 1995.

Hon. A.M. ''MITCH'' MCCONNELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCONNELL: AAA Kentucky, serving over 300,000 members in our state, strongly supports an amendment removing the toll provision in S. 440, ''The National Highway System Designation Act of 1995''. Our opposition to allowing tolls on federally financed highways is rooted in four basic beliefs:

The motorists we serve do not want tolls;
Tolls are economically regressive;
Tolls hurt travel and tourism;
Tolls on federally financed highways are an unfair form of double taxation

MOTORISTS DO NOT WANT TOLLS

According to AAA's 1994 National Legislative Survey, two-thirds of AAA members oppose imposing tolls on existing interstates/highways to fund highway maintenance or improvements. Locally, we are tabulating our most recent legislative state survey and the results are running sixty-eight percent against tolls as a method to increase revenues.

TOLLS ARE ECONOMICALLY REGRESSIVE

According to the Congressional Budget Office, new toll roads would impose per-car charges of 8 to 10 cents per mile on travelers. This translates into an effective tax rate of an additional $1.60 to $2.00 per gallon of gasoline used. In addition, tolls are an inefficient form of taxation. For instance 15 percent of toll revenue is needed just for tax collection compared to only 1 percent of motor fuel taxes being used for collection. These factors combined to illustrate the point that tolls should be the last place we look for additional revenue.

TOLLS HURT TRAVEL

As a simple tenant of economics, the more expensive an action becomes, the fewer people will take that action. Toll roads illustrate this axiom by discouraging travel over the tolled section of highways. For example, here in Kentucky the Western Parkway was a toll highway until nine years ago, when tolls were removed. In a conversation with a Kentucky State Trooper, he said he felt that traffic has increased on the road over 25 percent since the tolls were lifted. Similarly, during peak travel times, congestion and delays at toll booths also breed frustration and further discourage travel, increase costs and harm the environment.

TOLLS ARE A FORM OF DOUBLE TAXATION

The promise the Federal government makes to motorists every time they pay the gas tax at the pump would be broken with the introduction of tolls. Literally, America's motorists have paid hundreds of billions

of dollars to construct and maintain the nation's highway system. To change the rules now and ask them to pay again as they use the system is clearly a form of double taxation.

For these reasons, AAA Kentucky strongly supports the removal of the toll provision from S. 440. It is vital to pass the NHS Bill as the earliest opportunity. However, while it contains such provisions, AAA finds it unacceptable.

Thank you for your efforts on behalf of Kentucky's, and the nation's, motorists.

Sincerely,

ROGER BOYD.
Director, Public Affairs.

NATSO,
June 20, 1995.

Hon. MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCONNELL: On behalf of NATSO, Inc., the professional and legislative representative of America's travel plaza and truckstop industry, I am writing to express grave concerns about a provision in S. 440 that would allow states to establish tolls on the Interstate highway system. I understand that you and Senator Baucus are offering an amendment to delete this provision, and the 32 NATSO member locations in Kentucky as well as the more than 1,070 member locations nationwide strongly support your efforts.

NATSO opposes this provision for several reasons. First, highway users have already paid for the Interstate system. Every time fuel is purchased, motorists pay a tax into the highway trust fund that goes to support the Interstate system. Allowing the states the opportunity to collect tolls from Interstate travelers is nothing more than a new tax on the highway user. The Interstate traveler should not be forced to pay again for something already purchased.

Also, this provision will undoubtedly shift traffic from Interstate highways, proven to be the safest and most efficient, to secondary roads that have not been designed to handle large volumes of traffic. This proposal will increase congestion and traffic accidents. It will also devastate the truckstops, travel plazas and thousands of other roadside businesses that provide goods and services to the Interstate traveler.

Finally, if more transportation funds are needed, we believe that Congress should spend down the $19.6 billion languishing in the highway trust fund. Instead of being used for its intended purpose, the highway trust fund is currently held hostage to make the federal deficit appear smaller. Asking the highway user to pay more—at a time when tax money already collected is not being spent—is wrong.

Again, NATSO strongly supports your amendment to delete this toll provision from S. 440. We will gladly provide assistance to you in your efforts to pass this amendment.

Sincerely,

W. DEWEY CLOWER,
President.

INTERNATIONAL BROTHERHOOD
OF TEAMSTERS,
June 21, 1995.

DEAR SENATOR: The International Brotherhood of Teamsters urges you to support the effort by Senators Baucus and McConnell to strike section 117 of the National Highway System Bill (S. 440). Section 117 would allow states to impose tolls on interstate highways.

Section 117 is an unnecessary tax increase on the trucking industry and the motoring public. Highway users already pay millions of dollars in taxes annually into the Highway Trust Fund for the construction and repair of interstate highways. Consequently, passage of Section 117 would put the Senate on record as supporting the ''double taxation'' of highway users. Passage of this additional highway tax will place an economic burden on both the transportation and tourism industries. We encourage you to vote to strike Section 117.

We also encourage you to vote for the amendment likely to be offered by Senator Exon that would establish standards for truck trailer lengths under the NAFTA. We support the Senator's proposal to limit single trailer lengths to fifty three feet. It is imperative that U.S. highway safety standards are not compromised during negotiations to establish common truck safety standards under the NAFTA. Senator Exon's proposal is a critically important step in ensuring that we preserve the highest highway safety standards possible in North America.

Sincerely,

WILLIAM W. HAMILTON, JR.,
Governmenal Affairs Department.

Mr. MCCONNELL. Madam President, I thank my friend from Virginia. I am pleased that this amendment is going to be accepted.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Virginia.

Mr. WARNER. Mr. President, both sponsors of this amendment have been quite persuasive. There were concerns certainly on our side for a period of time. But that persuasiveness has carried the day, since we are prepared to accept this. It I think goes back to the original situation which ensures that the National Highway System provides for the free flow of commerce. That was the objective of both of the sponsors.

I might also add that during the course of the discussions in the consideration of other amendments on this bill, I find the truckers have been very responsible in the area of supporting the continuation of the speed limit objective that I had and will continue to have, and also in objecting to a differential between cars and trucks. I likewise oppose any differential.

So while criticism is often directed toward them, I think certainly in the consideration of this bill in the three areas, they come up in a very responsible manner.

So if the distinguished Senator from Montana wishes, I believe the junior Senator from Montana wishes to be added as a cosponsor, the Presiding Officer. I ask unanimous consent on behalf both Senator BAUCUS and myself, that the junior Senator, Senator BURNS be added as a cosponsor of this measure.

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

Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Montana.

The amendment (No. 1447) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, if I could get the attention of my comanager, there may be some amendments. We are still working on a list of amendments that we might clear at any time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, my understanding is that time remaining on the amendment offered by the Senator from West Virginia is 20 minutes equally divided. What is the time remaining on the amendment offered by the Senator from North Dakota?

The PRESIDING OFFICER. The Senator from North Dakota has 3 minutes and 30 seconds. The manager in opposition has 12 minutes and 15 seconds.

Mr. BAUCUS. Mr. President, I ask that the time on the amendment offered by the Senator from West Virginia be yielded in its entirety, and that 10 minutes of that be transferred to the Senator from North Dakota.

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

Mr. BAUCUS. I thank the chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DORGAN. I yield myself such time as I may consume on my amendment.

The PRESIDING OFFICER. Without objection.

AMENDMENT NO. 1445

Mr. DORGAN. Mr. President, at 7:40 we begin a series of three votes, one of which will be on the amendment I offered. My amendment is one that, again, would establish a national standard to say that States shall enact statutes that call for the prohibition of open containers of alcohol in vehicles. My amendment is not likely to attract sufficient votes to pass, I am guessing, if history is a lesson here.

Some will come to the Chamber and decide, ''Well, my State does not have the prohibition for open containers, so I don't want to provide any leadership in Washington.'' Others will say, ''I do not think Washington ought to be telling anybody anything, so I will vote against it.''

So we have a circumstance where we have a bill described by the managers to have a national strategy on transportation. But I must say that any bill

that describes itself as a bill of national strategy that fails to provide the leadership necessary to send a message to this country that drinking and driving do not mix is a bill that falls far short on national strategy. It is not much of a strategy, in my judgment.

We now have in this country a requirement that you wear seatbelts. Apparently the message would be, if my amendment does not pass, ''Go ahead and get in the car, buckle up, and then go ahead and take a swill of bourbon.'' It is fine with some. They do not mind if you drink. Just make sure you have your seatbelt on if you drink. I guess it is a policy position that might be attractive to some, but not to those who think clearly.

It seems to me that Senators should understand that in this country every year there are 1 million people injured from drunk driving accidents. Every 25 minutes or so another American is killed from a drunk driving accident. In 11 years, 1982 to 1993, for which we have statistics, 266,000 Americans were killed as a result of alcohol-related accidents.

As I said before, this is not some mysterious disease. We know what causes it and how to stop it. The Europeans know how to stop it largely. They tell people, ''Do not even think about drinking and driving. It is not funny. Do not even think about it. If you get caught drunk driving, you are in deep trouble.''

There are parts of this country where, if you get caught drunk driving, you get a little slap on the wrist and people grin at you, ''You must have been having a good time.''

It is not a good time to turn a car into a weapon of murder. That is what happens in this country if we do not have the strength to develop a national standard to say to people, part of the responsible use of our highways in this country is to understand you cannot drink and people in your car cannot drink and you cannot have open containers of alcohol in your car. There is nobody here that can come to the floor and claim a national strategy for the national transportation system until we provide a national strategy to tell Americans that you cannot drink and drive, you cannot have open containers of alcohol in vehicles. Until that happens, no one can reasonably come to the floor of the Senate and say we have a responsible national strategy on transportation or a responsible national strategy with respect to highways.

It is disgusting to me that in this country there are still six States where it is legal to drink and drive, and there are 26 States in which you can have an open container of alcohol in a vehicle. One way or another—one way or another—someday, somehow, we are going to fix that. And we are going to learn the lessons that others in the world have already learned, notably European countries, to tell Americans that part of driving responsibly is to understand you do not drink and drive in our country. That is what my amendment is intending to do.

I suspect there will not be sufficient votes for my amendment because people will come here and decide that they are not interested in providing national leadership on this issue. And the result will be more Americans will die. And until one day when sufficient numbers will come to the floor of the Senate and the House and decide that the carnage really ought to stop and there is something we can do to stop it, then we will pass an amendment of this type.

Mr. President, I yield whatever time I have remaining to the Senator from New Jersey, Senator LAUTENBERG.

The PRESIDING OFFICER. There are 8 minutes 35 seconds.

The Senator is recognized.

Mr. LAUTENBERG. I thank the Presiding Officer. Mr. President, I rise because there is a confluence of amendments and ideas being put forward at this time that come together to me in a very meaningful way. All of us—all of us, I am sure—have known someone who lost a family member or who themselves were lost because someone was casual about booze and driving.

Perhaps the thing I am most proud of—I am honored to be elected to the Senate; I am honored to have had that opportunity in my life—but the thing that I am most proud of is that I am the father of four wonderful children and two of the most beautiful grandchildren to ever walk the face of the Earth. I am so taken by them that my thoughts are often consumed by the view of the world in which we live and concerned about things that, again, concern all parents—fathers, mothers—that is, the violence in our society, the destruction of young lives needlessly, about the family that we know where a 14-year-old boy was riding in the passenger seat in a car in Florida. The 16-year-old boy was driving. He had open containers of beer in the car. They hit a telephone pole going 70 miles an hour. My friend's son was incinerated. We do not know whether he died before he was burned or whether it was after, but the thought, the notion, the vision of this child—a bright, beautiful young man—was so vivid that it seared the thinking of the community for years after. There have been memorials, there have been testimonials, but nothing—nothing—can ever remove the memory of that tragedy.

But I am also considered the father of the 21-drinking-age bill, not quite like fatherhood in the real sense, but something in which I take a significant measure of pride as well. That law was written in 1984. President Reagan was in office. Elizabeth Dole was the Secretary of Transportation. They were Republicans, devoted Republicans. And yet, throughout that debate, they were very positive. I was invited to be at the signing in the Rose Garden when President Reagan signed the 21-drinking-age bill.

That bill was almost forced on us by the anguish and the grief of parents across the country, of young friends across the country, high school kids—SADD was their organization, MADD was the Mothers Against Drunk Driving, who came here brokenhearted at the loss of a child, typically to drunken driving.

So we worked hard, and we got that bill through. The rewards come every year when we get reports from the National Highway Traffic Safety Administration, when they say that we are saving about a thousand kids a year from dying on the highways—a thousand kids.

It does not sound like something fantastic in the abstract, because a thousand families that do not have to mourn do not know that they escaped the pain. They do not know that they did not lose a child because there is a law on the books that encouraged the appropriate kind of behavior.

Here we are, some 10 years later, 10,000 young people saved from dying on the highways, and I feel very good about the effort that is being made throughout my State and many States in the country to reduce drunk driving, ever more harsh in the punishment of those who abuse the privilege and the opportunity to get behind the wheel of a car and forget about it only too quickly.

I am a strong supporter of Senator BYRD's amendment, which was offered before this, to continue to make the public and the driver more aware of the fact that when they drive and they drink that there is a penalty to be paid, a penalty far less—far less—than the ultimate penalty of winding up a statistic or a phone call in the dark of night or a police officer at the door.

So when we look at legislation, as we consider the national highway bill, and we try, as we develop this 160,000 miles more of supervised or constructive road development, that we focus on the safety issues.

One of the things that is apparent to anyone who has ever seen people driving with a drink container, a glass, a bottle in their hands, or a can, bottoms up going along often at a fast rate of speed, it seems to have particular attraction for young men and often people in the prime of life. They just do not understand that it is not cool, that it is not macho, that it is not anything but disgusting, because if they make a miscalculation, the ball game is over.

Mr. BREAUX. Will the Senator yield for a question?

Mr. LAUTENBERG. Yes.

Mr. BREAUX. I was listening to the Senator's arguments, as well as the arguments of the Senator from North Dakota. I think they were very eloquent about the problems we are facing with drinking while people drive.

I guess a philosophical question I ask the Senator from New Jersey, because I think the Senator from New Jersey supports the theory that on the use of highway funds for transportation purposes that the States should have a

maximum degree of flexibility—if they want to use highway funds, for instance, instead of building highways, they should have the right to use them for Amtrak and rail systems—how does that square with the argument I think the Senator is making now with regard to standards for when people drink within a State that the Federal Government knows better in that area, but the State knows better in the area of what type of transportation system is better within the State? We are going to tell you what to do when it comes to setting limitations on drinking, but we are not going to tell you what to do with how the money is spent for transportation purposes?

Mr. LAUTENBERG. To me, it is a fairly simple differentiation, and that is, in the case of decisions about where funds are spent on transportation, we have agreed in an amendment that we just dealt with that within the State legislature, the Governor and transportation officials within the State are qualified to make decisions about where they put their money—bridges, roadways, railroads, as I see it, mass transit. I think that is one kind of consideration.

But I never believed—never believed—that when it came to the safety of our children, when it came to the helmet law, when it comes to drinking and driving, I do not believe that the Federal Government dare walk away from its responsibilities any more than we ought to walk away from equipping our service people with adequate resources if they are ever in combat, with equipping our people with the best education that they can get, equipping our young people with the best health conditions they can get with proper nutrition. I think that is a responsibility of Government. I think we ought to step forward on all issues affecting people on our roads to try to reduce the danger.

Mr. BREAUX. Will the Senator yield further? Suppose the State says that is their responsibility, as well; let them make that decision?

Mr. LAUTENBERG. In this case, obviously, I am not one who is going over the cliff on behalf of all States rights. I think States ought to have some flexibility in some areas, and in others, I think that there ought to be a national policy that is consistent.

One of the problems that we had—and I know the Senator knew this very well because he was in Washington at that time—one of the problems we had when we tried to develop the 21 drinking age was that there were States, and some of these, not the most rural States, by the way, as one might often think, that refused to raise the drinking age because business was pretty good.

By the way, one of the places was right here in the very Capital of our country. Washington, DC, was one of the last. They made a calculated decision as to whether or not they would raise the drinking age to 21 because Georgetown sells a lot of booze, and there is a lot of money spent there. So they were almost willing to trade bucks for lives, but the legislation forced them, because they would have lost a fair amount of their transportation money.

Mr. DORGAN. Will the Senator yield to me?

Mr. LAUTENBERG. I will be happy to yield.

Mr. DORGAN. I might respond in part to the Senator from Louisiana by saying this is a question, in part, of whether there ought to be a national standard, not a question of whether the States can do it better. It is a question of do you think there should be a national standard on whether one should drink and drive.

If one takes the position, I think some States ought to say you can drink a little and drive, and another State can say you can drink a lot and drive—because in our State there is a feeling you can drink a lot and drive—and in another State they say we do not think you ought to drink and drive at all, my own view of those three different choices States made is I think it ought not be a State choice. I think we ought to have a national standard on the fundamental question of is it appropriate on the national highways of the United States to drink and drive. The answer to me is no.

Now, one can reach a different conclusion, and I will respect that. But I view this as the question of, should we have a national standard? The answer, clearly to me, is yes. Nowhere in this country should anyone ever believe, under any circumstance, that it is appropriate to get behind the wheel of a car, start the engine, and drive away drinking whiskey. That is totally, always, in every part of this country, inappropriate. I hope that we will have a national standard that will say that.

Mr. BREAUX. If the Senator will yield, I think the discussion is good.

Mr. LAUTENBERG. Yes, I yield.

Mr. BREAUX. I say to the Senator from North Dakota, in discussing this, we have a national transportation highway system, and yet, some would argue, with a lot of eloquence, that the States should have a right to determine whether it is going to be a highway made of concrete or whether it is going to be a rail system that is used to transport people. The State ought to have a right to make that decision.

I have a lot of sympathy that States should make that determination, even though it is a national highway transportation bill. But then when it comes to setting standards for when someone within a particular State should have a right to drink, well, some who make the argument that the States ought to have the flexibility on determining whether they are going to build highways or rail systems, then we are going to supersede you and we are going to determine in Washington what the proper standard is.

In one case, we are saying the States have the right to make that determination, and in another area we say you are not smart enough to make the right determination, and we have to do it here in Washington. I am bothered by the inconsistency.

Mr. LAUTENBERG. I appreciate the Senators' interests and comments. I say this: If, in Louisiana, a decision was made to build a highway, bridge, or a rail spur, that does not necessarily present any danger or any problems for people in the neighboring States.

However, if State ''A'' has an open, or has no restrictions on drinking and driving, no open container law, and does not enforce the 21 drinking age law, it invites disaster, because young people from State ''B''—we call those blood borders. That is why the 21 drinking age bill was put into place in the first place. These are young kids. I have it in my State. It happened between New Jersey and New York and between Wisconsin and Illinois. There are a lot of instances around the country. Young people in New Jersey —at one point, we had an 18-year-old drinking age. When the law turned to 21 because we were losing too many kids on our highways, New York State invited them over. They would go over and they would come back and come down ''slaughter alley,'' a particular road and often would not make it home. Boy, that convinced me, and I said we ought to have a standard that applies all over. What you do in one State can seriously affect the lives and well-being of others in other States.

The PRESIDING OFFICER. The chair advises the Senator that his time has expired.

Mr. LAUTENBERG. Is there any more time left?

The PRESIDING OFFICER. We have 7 minutes on the other side of the aisle.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, if the Senator from Montana and the Senator from Virginia would be willing—I know we are headed toward a vote, and I was willing to agree to the shortest time agreement. I wonder if they would permit an additional 5 minutes prior to the vote so that the Senator from Arkansas might speak on this issue.

Mr. WARNER. Mr. President, will the Senator restate the request?

Mr. DORGAN. We have apparently 5 or 6 minutes before the votes will begin. I would like some time for the Senator from Arkansas to speak.

Mr. WARNER. How much time does the Senator desire?

Mr. DORGAN. If the Senator would provide 4 or 5 minutes so the Senator from Arkansas can have some time, along with the Senator from New Jersey.

Mr. WARNER. Would 6 minutes be agreeable? We will yield 7.

Mr. President, I make a unanimous consent request that the Senator from North Dakota have 7 minutes under his control.

Mr. DORGAN. I very much appreciate the generosity.

I yield to the Senator from New Jersey.

Mr. LAUTENBERG. I thank the Senator. I will wrap up my comments by noting that around this place lately we have been talking about values, about family, about structure, about behavior. And while we do not regulate behavior here, we talk often about models, examples, and about conduct. One of the worst ways for any child growing up to get a picture of what he or she ought to do in adulthood is someone moving down the road with a beer can, pouring it down their throat at the same time that they are driving. It is not a good image, and it is not a good result. I hope that in the final analysis, the amendment by the Senator from North Dakota will prevail. It is an excellent amendment.

Mr. DORGAN. I yield the remainder of my time to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. I thank the Senator. We are all victims of our own personal experiences. So I will tell you about mine. I was a freshman at Northwestern University Law School in Chicago. My brother was up at Harvard Law School. Both of us were there on the GI bill because I promise you my father could not afford that kind of education for us. One Sunday evening, I got this phone call that my mother and father had been in a car wreck, and the message was obviously tempered. But I got on a plane the first thing the next morning and flew home. It was tough to get home to Fort Smith, AR, from Chicago back in those days.

But to shorten the story, my father owned a small farm over in Oklahoma, just across the Arkansas River from where we lived. He and my mother and a couple next door had gone over to look at the spinach, which was coming up, and they were going to start harvesting it the next day. They were coming back and were 10 miles west of Fort Smith, AR, on what is now I–40—this is the transportation bill. They were on an 18-foot narrow highway with no shoulders, and they came up over a slight hill, just a slight incline, at about dusky-dark—the wrong time, wrong place—roaring drunk, whom a cop had been chasing, but he had a flat tire and he lost him. He went over on my father's side of the road and, blam, our neighbor next door was killed instantly, and my mother died 2 days later. And my father died 5 days later.

I have often wondered about how we establish death penalties in this country. You could not have taken an AK–47 and more deliberately killed my mother and father than to get behind the wheel of an automobile roaring drunk and, in a split second, destroy our family. So I have no problem supporting this amendment, the Byrd amendment, and any other amendment that anybody wants to offer dealing with this subject.

As I was about to say a moment ago, this is a transportation bill. Almost precisely where my mother and father were killed, today is I–40. If I–40 had been there then, my mother and father would have lived a normal lifespan and we would have had the happiness that should have been ours for at least another 20 years.

So I speak in favor of these magnificent highways we have today that give us some protection. As you know, the death rate on interstate highways is about 80 percent less than it is on all the other two-lane highways, because you do not have to worry about some drunk coming over a hill on the wrong side of the road. So I am pleased that we are trying to improve our highways in this country and give people like my father an opportunity not to have to face drunken drivers who do not have any better judgment than to get roaring drunk. And, as I say, surely as if he had an AK–47 in his hands, he could not have killed those three people any more efficiently.

Why not the death penalty? I have always struggled with the death penalty, I admit it. I voted for it. It has always been a problem. But I have never been able to see the distinction between the people we provide the death penalty for and the guy who served 5 years in the penitentiary for killing my mother and father and their best friend next door.

I will yield the floor and say that I strongly support the Senator from North Dakota, and I strongly support the Senator from West Virginia.

Mr. WARNER. Mr. President, I just wish to say that there are moments in the life of the U.S. Senate that one shall always remember, and I am privileged to have had a long, personal relationship with my good friend from Arkansas, predicated on many, many things that we have done and shared together.

Tonight, the Senator has deeply touched this Senator, as I am sure many others, showing the courage to come over here and share with the Senate that story. I shall not forget it.

Mr. BUMPERS. I thank the Senator.

Mr. WARNER. Mr. President, the comanager, the Senator from Montana, and I have several amendments which we will now clear with the Senate.

AMENDMENT NO. 1448

(Purpose: To require the Secretary of Transportation to cooperate with the State of Wyoming in monitoring the changes in growth along, and traffic patterns of, certain road segments in Wyoming, for the purpose of future consideration of the addition of the route segments to the National Highway System)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for Mr. THOMAS, proposes an amendment numbered 1448.

Mr. WARNER. I ask unanimous consent further reading be dispensed with.

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

The amendment is as follows:

On page 8, line 3, insert ''(a) IN GENERAL.—'' before ''Section''.

On page 10, between lines 13 and 14, insert the following:

(b) ROUTES SEGMENTS IN WYOMING.—

(1) IN GENERAL.—The Secretary of Transportation shall cooperate with the State of Wyoming in monitoring the changes in growth along, and traffic patterns of, the route segments in Wyoming described in paragraph (2), for the purpose of future consideration of the addition of the route segments to the National Highway System in accordance with paragraphs (2) and (3) of section 103(c) of title 23, United States Code (as added by subsection (a)).

(2) ROUTE SEGMENTS.—The route segments referred to in paragraph (1) are—

(A) United States Route 191 from Rock Springs to Hoback Junction;

(B) United States Route 16 from Worland to Interstate Route 90; and

(C) Wyoming Route 59 from Douglas to Gillette.

Mr. WARNER. This is an amendment on behalf of the Senator from Wyoming, [Mr. THOMAS].

The amendment does not add new routes, nor does it provide any funds. It encourages the Federal Highway Administration and the State of Wyoming to monitor growth changes in the Wyoming National Highway System.

I urge its acceptance.

Mr. BAUCUS. Mr. President, we have examined this amendment and have no objections.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1448) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1449

Mr. WARNER. Mr. President, I send an amendment to the desk on behalf of the two Senators from South Dakota, Mr. PRESSLER and Mr. DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for Mr. PRESSLER, for himself and Mr. DASCHLE, proposes an amendment numbered 1449.

Mr. WARNER. Mr. President, I ask unanimous consent further reading be dispensed with.

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

The amendment is as follows:

Insert ''(a)'' immediately before ''Notwithstanding'' on page 32, line 17.

Insert a new subsection (b) after page 32, line 25, to read as follows:

''(b) Upon receipt of a written notification by a State, referring to its right to provide notification under this subsection, the Secretary of Transportation shall waive, with respect to such State, any requirement that

such State use or plan to use the metric system with respect to designing, preparing plans, specifications and estimates, advertising, or taking any other action with respect to Federal-aid highway projects or activities utilizing funds authorized pursuant to title 23, United States Code. Such waiver shall remain effective for the State until the State notifies the Secretary to the contrary. Provided further, a waiver granted by the Secretary will be in effect until September 30, 2000.''

Mr. PRESSLER. Mr. President, my amendment concerns the issue of metric conversion. It makes clear that in this era of significant budgetary pressures, expenditures on metric conversion does not deserve priority. We must preserve Federal and State transportation funds for more important needs. Let me explain.

The Federal Highway Administration, by regulation, is requiring metric conversion of internal processes for all States by September 30, 1996. If a State is not in compliance, Federal-aid highway funds will be lost. What would such internal conversion entail?

In addition to engineering and planning concerns, this would require States to rewrite their highway and transportation design procedures as well as to rewrite their motor vehicle and drivers license manuals. Their procedures for the purchase of materials and equipment would need to be altered and they would need to provide retraining to workers. All this and more by September 30, 1996.

Would a better approach not be to give States adequate time to allocate resources and provide for internal metric conversion based on their own unique funding priorities? It would.

Mr. President, infrastructure needs and costs continue to increase dramatically. While I am not at all opposed to metric conversion, I believe it could best be accomplished at the discretion of each State. After all, should not each State be allowed to consider their unique funding needs? They should. And that is what my amendment would allow.

Specifically, my amendment would allow the Secretary of Transportation to waive, upon the receipt of a written notification by a State, any requirement that such State use or plan to use the metric system with respect to designing, preparing plans, specifications and estimates, advertising, or taking any other action with respect to Federal-aid highway projects or activities. The waiver would be in effect until September 30, 2000.

Mr. President, my amendment has no budget impact. However, it would help States with limited resources to deliver more services to their citizens. Should that not be our primary objective? I urge my colleagues to support my amendment.

Mr. WARNER. On behalf of Senators PRESSLER and DASCHLE, the managers send this amendment.

We accept the amendment to provide States until the year 2000 to convert their internal working documents to the metric measurements.

Mr. BAUCUS. Mr. President, we accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1449) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1450

(Purpose: To clarify eligibility of a Luzerne County, Pennsylvania rail freight acquisition and improvement project for certain federal transportation funds)

Mr. WARNER. Mr. President, I send to the desk on behalf of the Senator from Pennsylvania, [Mr. SPECTER] an amendment and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for Mr. SPECTER, proposes an amendment numbered 1450.

Mr. WARNER. I ask unanimous consent further reading be dispensed with.

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

The amendment is as follows:

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

SEC. . CLARIFICATION ELIGIBILITY.

The improvements to the former Pocono Northeast Railway Company freight rail line by the Luzerne County Redevelopment Authority that are necessary to support the rail movement of freight, shall be eligible for funding under sections 130, 144, and 149 of title 23, United States Code.

Mr. WARNER. Mr. President, this amendment allows for the economic redevelopment of the former Pocono Northeast Railway Co. No funds are involved.

Mr. BAUCUS. Mr. President, we have no objection on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1450) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1451

(Purpose: To provide States with innovative financing options for projects with dedicated revenue sources)

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] for Mr. LEVIN, proposes an amendment numbered 1451.

Mr. BAUCUS. Mr. President, I ask unanimous consent further reading be dispensed with.

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

The amendment is as follows:

SEC. 204. TOLL ROADS, BRIDGES, TUNNELS, NON-TOLL ROADS THAT HAVE A DEDICATED REVENUE SOURCE, AND FERRIES.

Section 129 of title 23, United States Code, is amended—

(1) by revising the title to read as follows:

"§ 129. Toll roads, bridges, tunnels, non-toll roads that have a dedicated revenue source, and ferries"; and

(2) by revising paragraph 129(a)(7) to read as follows:

''(7) LOANS.—

''(A) IN GENERAL.—A State may loan an amount equal to all or part of the Federal share of a toll project or a non-toll project that has a dedicated revenue source, specifically dedicated to such project or projects under this section, to a public entity constructing or proposing to construct a toll facility or non-toll facility with a dedicated revenue source. Dedicated revenue sources for non-toll facilities include: excise taxes, sales taxes, motor vehicle use fees, tax on real property, tax increment financing, or such other dedicated revenue source as the Secretary deems appropriate.

Mr. LEVIN. Mr. President, I am offering an amendment to make a simple change to S. 440, the National Highway System [NHS] Designation Act of 1995.

The amendment will allow States to lend all or part of the Federal share of the costs of transportation projects to public entities, so long as there is a dedicated revenue source associated with that project. Current law only allows toll projects to be eligible for this kind of financing. The increased flexibility provided by this amendment should help States and local governments that need more transportation funds to proceed with or continue construction of a greater number of vital projects.

Mr. President, I am pleased that my colleagues are able to accept this amendment.

Mr. BAUCUS. Mr. President, the managers offer this amendment on behalf of Senator LEVIN. This amendment provides for innovative financing options for States. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1451) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1452

Mr. WARNER. Mr. President, I send to the desk an amendment on behalf of Senators ABRAHAM and LEVIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for Mr. ABRAHAM, for himself and Mr. LEVIN, proposes an amendment numbered 1452.

Mr. WARNER. I ask unanimous consent further reading be dispensed with.

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

The amendment is as follows:

Strike lines 7 through 10 on page 33 and insert the following:

''(5)(A) I–73/74 North South Corridor from Charleston, South Carolina, through Winston-Salem, North Carolina, to Portsmouth, Ohio, to Cincinnati, Ohio, to termini at Detroit, Michigan, and Sault Ste. Marie, Michigan.''

Mr. LEVIN. Mr. President, this amendment makes one minor change to S. 440, the National Highway System [NHS] Designation Act of 1995.

The change will modify the current northern terminus of NHS high-priority corridor Interstate 73/74. Currently, the bill designates Detroit, MI, as the only northern end of that corridor. This amendment adds Sault Ste. Marie, another major border crossing, as an additional terminus. The actual route to each terminus will be determined by the Federal Highway Administration [FHA] and the Michigan Department of Transportation [MDOT] after appropriate studies are completed.

Mr. President, I am pleased that my colleagues are able to accept this amendment.

Mr. WARNER. Mr. President, this amendment is a modification to the I–73 route in Michigan. The managers are pleased to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1452) was agreed to.

Mr. BAUCUS. I move to reconsider the vote.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1453

(Purpose: To provide for the transfer of funds between certain demonstration projects in Louisiana)

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] for Mr. BREAUX, proposes an amendment numbered 1453.

Mr. BAUCUS. I ask unanimous consent further reading be dispensed with.

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

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . TRANSFER OF FUNDS BETWEEN CERTAIN DEMONSTRATION PROJECTS IN LOUISIANA.

Notwithstanding any other law, the funds available for obligation to carry out the project in West Calcasieu Parish, Louisiana, authorized by section 149(a)(87) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 101–17; 101 Stat. 194) shall be made available for obligation to carry out the project for Lake Charles, Louisiana, authorized by item 17 of the table in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 101–240; 105 Stat. 2038).

Mr. BAUCUS. Mr. President, the managers this amendment offer on behalf of Senator BREAUX, to clarify the use of funds previously authorized for a Louisiana project.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1453) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Now, Mr. President, I ask unanimous consent that on the amendment by the Senator from Montana, Mr. BAUCUS, just adopted, Senator SIMPSON of Wyoming be listed as a cosponsor to the amendment.

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

AMENDMENT NO. 1454

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] for Mr. BUMPERS, proposes an amendment numbered 1454.

Mr. BAUCUS. I ask unanimous consent further reading be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . NORTHWEST ARKANSAS REGIONAL AIRPORT CONNECTOR.

Notwithstanding any other provision of law, the Federal share for the intermodal connector to the Northwest Arkansas Regional Airport from U.S. Highway 71 in Arkansas shall be 95 percent.

Mr. BAUCUS. Mr. President, this amendment on behalf of Senator BUMPERS of Arkansas provides uniform match for intermodal connector as part of U.S. 71 to the Northwest Arkansas Regional Airport.

Mr. WARNER. Mr. President, we accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1454) was agreed to.

Mr. WARNER. Mr. President, the amendments are in order to be voted on. There will be the normal period of time allocated for the first amendment.

Might I inquire as to whether or not we could get consent to have the sequential amendments 10 minutes each?

Mr. BAUCUS. Yes.

Mr. WARNER. Mr. President, I ask unanimous consent that following the first vote occurring this evening, the remaining votes—and there are two now scheduled—be in sequence and be limited to 10 minutes each.

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

VOTE ON MOTION TO TABLE AMENDMENT NO. 1444

The PRESIDING OFFICER. Under the previous order, the question occurs on the motion to table amendment No. 1444, offered by the Senator from Delaware, [Mr. ROTH].

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. DEWINE). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 36, nays 64, as follows:

[Rollcall Vote No. 276 Leg.]

YEAS—36

Ashcroft	Domenici	Kyl
Baucus	Faircloth	Lugar
Bingaman	Frist	McConnell
Bond	Glenn	Nickles
Brown	Grams	Packwood
Bryan	Grassley	Shelby
Coats	Gregg	Simpson
Cochran	Helms	Smith
Conrad	Hutchison	Thomas
Coverdell	Inhofe	Thompson
Craig	Kassebaum	Thurmond
Dole	Kempthorne	Warner

NAYS—64

Abraham	Gorton	Mikulski
Akaka	Graham	Moseley-Braun
Bennett	Gramm	Moynihan
Biden	Harkin	Murkowski
Boxer	Hatch	Murray
Bradley	Hatfield	Nunn
Breaux	Heflin	Pell
Bumpers	Hollings	Pressler
Burns	Inouye	Pryor
Byrd	Jeffords	Reid
Campbell	Johnston	Robb
Chafee	Kennedy	Rockefeller
Cohen	Kerrey	Roth
D'Amato	Kerry	Santorum
Daschle	Kohl	Sarbanes
DeWine	Lautenberg	Simon
Dodd	Leahy	Snowe
Dorgan	Levin	Specter
Exon	Lieberman	Stevens
Feingold	Lott	Wellstone
Feinstein	Mack	
Ford	McCain	

So, the motion to lay on the table the amendment (No. 1444) was rejected.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, the managers would like to address the Senate. May we have order.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Virginia.

Mr. WARNER. It is the judgment of the managers that we can complete this bill tonight provided we can get a list of amendments which would remain in order. We are now compiling that list, and the managers urge all Senators who have any question about any amendment to kindly approach the desk here and address the managers or their staff, such that at the conclusion of this vote but before the third vote we can pose a unanimous consent request with regard to the remaining amendments, all of which we hope we can resolve without rollcall votes.

Mr. BIDEN. Mr. President, I wonder whether the managers of the bill are willing to have a voice vote on adoption of this amendment now.

Mr. WARNER. Mr. President, I agree.

Mr. BIDEN. Mr. President, I would urge adoption of the Roth-Biden

amendment and ask for a voice vote on that now.

The PRESIDING OFFICER. Without objection, the yeas and nays are vitiated.

The question is on agreeing to the amendment.

The amendment (No. 1444) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1446

The PRESIDING OFFICER. The question now occurs on agreeing to Amendment No. 1446 offered by the Senator from West Virginia [Mr. BYRD]. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 64, nays 36, as follows:

[Rollcall Vote No. 277 Leg.]

YEAS—64

Abraham	Feinstein	McCain
Akaka	Ford	McConnell
Baucus	Glenn	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Gramm	Moynihan
Boxer	Harkin	Murkowski
Bradley	Hatch	Murray
Breaux	Hatfield	Pell
Bryan	Heflin	Pryor
Bumpers	Helms	Reid
Byrd	Hollings	Robb
Chafee	Hutchison	Rockefeller
Cochran	Inouye	Sarbanes
Cohen	Johnston	Simon
Conrad	Kassebaum	Simpson
D'Amato	Kennedy	Specter
Daschle	Kerrey	Stevens
DeWine	Kerry	Thurmond
Dodd	Kohl	Warner
Domenici	Lautenberg	Wellstone
Dorgan	Levin	
Exon	Lieberman	

NAYS—36

Ashcroft	Frist	Mack
Bennett	Graham	Nickles
Bond	Grams	Nunn
Brown	Grassley	Packwood
Burns	Gregg	Pressler
Campbell	Inhofe	Roth
Coats	Jeffords	Santorum
Coverdell	Kempthorne	Shelby
Craig	Kyl	Smith
Dole	Leahy	Snowe
Faircloth	Lott	Thomas
Feingold	Lugar	Thompson

So the amendment (No. 1446) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the managers are anxious to determine what amendments remain, in the hopes that we can establish a list and to lock in those amendments, and then determine whether or not rollcall votes are required.

The amendments that this manager knows of, and I know that my distinguished colleague has others, are as follows: Senators FRIST, COHEN, SMITH, HATFIELD, MCCAIN second amendment, both Senators from Alaska and Senator INOUYE, plus, of course, a managers' amendment.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, as near as I can determine, on our side there is an amendment by Senator JOHNSTON dealing with high-priority corridors; Senators SARBANES and MIKULSKI may have a colloquy. I am not sure if that is an amendment or not. Senator FORD, Senator INOUYE, Senator EXON has three amendments, Senator WELLSTONE, Senator KERRY, Senator BOXER with two amendments.

Mr. WARNER. Mr. President, are there other Senators who wish to express an interest in the amendments? If not, I ask unanimous consent that the list, as stated by the Senator from Virginia, as amended by the Senator from Montana, represent the totality of the amendments that can be further considered on this bill.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. I assure the Senator from Alaska, both of his amendments are on the list.

Mr. STEVENS. I still object.

Mr. WARNER. Objection has been heard.

VOTE ON AMENDMENT NO. 1445

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1445, offered by the Senator from North Dakota, Senator DORGAN. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 52, as follows:

[Rollcall Vote No. 278 Leg.]

YEAS—48

Akaka	Glenn	McCain
Biden	Gorton	McConnell
Boxer	Harkin	Mikulski
Bradley	Hatch	Moseley-Braun
Bumpers	Hatfield	Moynihan
Byrd	Heflin	Murray
Chafee	Helms	Pell
Cohen	Hollings	Pryor
Conrad	Inouye	Reid
D'Amato	Kassebaum	Rockefeller
Daschle	Kennedy	Sarbanes
DeWine	Kerrey	Simon
Dodd	Kerry	Simpson
Exon	Lautenberg	Stevens
Feinstein	Levin	Thurmond
Ford	Lieberman	Wellstone

NAYS—52

Abraham	Bryan	Domenici
Ashcroft	Burns	Dorgan
Baucus	Campbell	Faircloth
Bennett	Coats	Feingold
Bingaman	Cochran	Frist
Bond	Coverdell	Graham
Breaux	Craig	Gramm
Brown	Dole	Grams
Grassley	Lott	Santorum
Gregg	Lugar	Shelby
Hutchison	Mack	Smith
Inhofe	Murkowski	Snowe
Jeffords	Nickles	Specter
Johnston	Nunn	Thomas
Kempthorne	Packwood	Thompson
Kohl	Pressler	Warner
Kyl	Robb	
Leahy	Roth	

So the amendment (No. 1445) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote and to lay that motion on the table.

Mr. DORGAN. Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. SANTORUM). The question is on agreeing to the motion to table the motion to reconsider. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Maine [Mr. COHEN] and the Senator from Alabama [Mr. SHELBY] are necessarily absent.

Mr. FORD. Mr. President, I announce that the Senator from Delaware, [Mr. BIDEN], the Senator from Louisiana, [Mr. BREAUX], the Senator from California, [Mrs. FEINSTEIN], the Senator from South Carolina, [Mr. HOLLINGS], the Senator from Arkansas, [Mr. PRYOR], and the Senator from Illinois, [Mr. SIMON] are necessarily absent.

The result was announced—yeas 51, nays 41, as follows:

[Rollcall Vote No. 279 Leg.]

YEAS—51

Abraham	Feingold	Lugar
Ashcroft	Frist	Mack
Baucus	Gorton	McCain
Bennett	Graham	Murkowski
Bingaman	Gramm	Nickles
Bond	Grams	Nunn
Brown	Grassley	Packwood
Bryan	Gregg	Pressler
Burns	Hutchison	Robb
Campbell	Inhofe	Roth
Coats	Jeffords	Santorum
Cochran	Johnston	Smith
Coverdell	Kassebaum	Snowe
Craig	Kempthorne	Specter
Dole	Kohl	Thomas
Domenici	Kyl	Thompson
Faircloth	Lott	Warner

NAYS—41

Akaka	Glenn	McConnell
Boxer	Harkin	Mikulski
Bradley	Hatch	Moseley-Braun
Bumpers	Hatfield	Moynihan
Byrd	Heflin	Murray
Chafee	Helms	Pell
Conrad	Inouye	Reid
D'Amato	Kennedy	Rockefeller
Daschle	Kerrey	Sarbanes
DeWine	Kerry	Simpson
Dodd	Lautenberg	Stevens
Dorgan	Leahy	Thurmond
Exon	Levin	Wellstone
Ford	Lieberman	

NOT VOTING—8

Biden	Feinstein	Shelby
Breaux	Hollings	Simon
Cohen	Pryor	

So the motion to lay on the table the motion to reconsider was agreed to.

THE ALAMEDA CORRIDOR PROJECT

Mrs. BOXER. Mr. President, I would like to ask the distinguished chairman of the Committee on Environment and Public Works a question of a clarifying nature regarding the provision in S. 440 which identifies and establishes the Alameda transportation corridor in my State of California as a ''high-priority corridor'' under section 1105 of the Intermodal Surface Transportation and Efficiency Act.

Mr. CHAFEE. I would be happy to yield to the Senator from California for a question.

Mrs. BOXER. Let me begin by first commending Senator CHAFEE, the committee chairman, Senator WARNER, chairman of the Subcommittee on Transportation and Infrastructure, and my ranking member Senator BAUCUS for their support in recognizing the Alameda corridor as a project of critical importance not only to California's but to the Nation's economy.

In recent months, the attention of Congress has been focused on how to reduce our budget deficit and how to restructure infrastructure spending. As important as these goals are, it remains critical in this new era in the Federal budget process to support infrastructure projects which have national significance. I support innovative solutions to meet our transportation infrastructure needs.

The Alameda transportation corridor is one of the most critically important infrastructure projects for the Nation. The project will streamline rail and highway transportation between the ports of Los Angeles and Long Beach, and intermodal connections in downtown Los Angeles. The rail portion of the project will consolidate the operations of three freight carriers into one higher speed corridor and eliminate conflicts with highway crossings. Highways will also be improved to provide better access from the ports to the freeways. The increased transportation efficiency will provide the added benefit of decreased air pollution.

Last year the ports handled $74.3 billion in exported or imported goods. That amount represents 27 percent of the national value of exports and imports. This volume of shipments produces more than $17.3 billion in Federal, State, and local taxes nationwide. With completion of the project, these figures will substantially increase. The ports estimate that the project will increase national economic output by an estimated $170 billion annually and will increase total Federal revenues by approximately $32 billion.

The Alameda corridor will mean billions in increased trade for the United States, hundreds of millions in new tax revenue to State and local governments throughout the country, and the addition of hundreds of thousands of jobs nationwide.

Recognizing the national significance of the project, Mr. President, I would like to pose the following question to Senator CHAFEE: As I understand section 1105 of ISTEA, the designation of the Alameda transportation corridor as a ''high-priority corridor'' under this section will enable the Secretary of Transportation to work cooperatively with the project sponsors on using creative financing to advance the project, including eligibility for a line a credit. Is that correct?

Mr. CHAFEE. Yes. The designation of the Alameda transportation corridor as a ''high-priority corridor'' reflects the committee's determination that the project merits an ongoing Federal role based upon the long-term potential benefits to interstate and international commerce. The Alameda corridor is, indeed, a project of national significance.

Under section 1105, high-priority corridors are eligible for creative financing with the Secretary. This eligibility includes participation in the Priority Corridor Revolving Loan Fund, the establishment of a line of credit, and other methods of financing. The section 1105 ''high-priority'' designation allows the corridor project to help itself by making it eligible for these innovative financing options.

I would encourage the Secretary to work with the project sponsors to identify and pursue those creative financing options that will assist the timely completion of the project.

Mrs. BOXER. I thank the chairman. I appreciate the clarification and again commend him for his assistance in moving this project forward.

Mr. ROBB. Mr. President, I rise today to speak briefly about several votes on amendments to the National Highway System Designation Act of 1995. These votes did not reflect a lack of support for helmet and seatbelt laws or speed limits on our highways. They reflected a choice as to the appropriate level of government to make those decisions. I believe these decisions are better decided, not by the Federal Government, but by each individual State, taking into consideration local conditions and local demographics.

Issues involving highway safety have always been important to me, dating back to my years as Governor of the Commonwealth of Virginia. I know the members of the Virginia General Assembly and the citizens of my State care very deeply about these issues as well.

Mr. President, existing Federal requirements forcing States to impose safety belt and helmet laws have had their intended consequences. Most States have enacted helmet and seatbelt laws. In my view, the time has come to remove the Federal Government from issues which properly fall within the province of the States. In the spirit of devolving non-Federal responsibilities to the States, I think we can start with ending the Federal role in setting traffic laws. At some point, we must trust the States on issues which fall particularly within their areas of expertise and for which they bear the full responsibility of enforcement.

To conclude, Mr. President, my votes yesterday were not to repeal safety laws or speed limits. I personally support helmet laws and seatbelt requirements. My votes were to allow Virginia and other States to use their own expertise to determine the laws that will best serve their citizens and enhance their safety.

Mr. DOLE. Mr. President, I join my colleagues today as a cosponsor of S. 440 to encourage the adoption of this legislation designating the National Highway System. This bill contains significant reforms that are important to Kansas and our country's transportation system.

There has been a great deal of support for the designation of the National Highway System. The 159,000 miles identified in this bill represent each State's primary routes connecting major population centers, transportation facilities, and other intermodal efforts. Our highway system is a network whose maintenance and upkeep are crucial to our economy. As new technological developments for intermodal transportation are created, the interconnectivity of our country's transportation system becomes increasingly important. This designation will allow for much needed funds to flow to our States directly.

I appreciate the efforts of Senator WARNER and Senator CHAFEE to address specific areas of concern for Kansas. The designation of the I–35 corridor identifies an existing route from Texas to Kansas to Minnesota that is a valuable link between Mexico and Canada. The demands on these transportation routes connecting Canada, the United States, and Mexico will only increase. As our demand for trade among these countries grows, so will our need to develop and maintain these transportation routes.

Several issues addressed in this bill have long been in need of attention. The repeal of the crumb rubber mandate, removal of metric measurements requirements, and hours of service clarifications are of great interest to many Kansans. Although we did not pursue the repeal of Davis-Bacon in this legislation, the repeal of this outdated law will continue to be a high priority. Throughout this debate, efforts have been made to give the States a greater role in setting their own transportation policy. The issue is not whether there should be a speed-limit or mandatory helmet or seatbelt law. The issue is who decides: is it Congress or each of the respective States?

In addition, I would like to thank Senator CHAFEE for joining with me in addressing the concerns of water-well

drillers and the hours-of-service regulations. The language in S. 440 resolves an unintended problem by requiring the drivers of water well drilling rigs to comply with the same hours of service regulations currently provided to drivers of vehicles in oilfield operations while maintaining safety priorities.

I believe the National Highway System designation, as well as other provisions contained in S. 440, provide a positive step forward in addressing our Nation's transportation needs.

I urge my colleagues to join in support of S. 440.

Mr. KEMPTHORNE. Mr. President, I rise today to express my strong support for the legislation before us, S. 440, the National Highway Designation Act. This is landmark legislation because it expands the existing Federal Interstate Highway System into a national system that includes the major roadways in every State. The identification of these important State highways and their eligibility for Federal highway funding is a significant step forward in strengthening the transportation network of our country.

As a member of the Environment and Public Works Committee and the subcommittee on Transportation and Infrastructure, I have been very involved in the drafting of many sections of this bill, the repeals of the crumb rubber and national speed limit mandates and, most importantly to me personally, funding authority for the National Recreational Trails Program. The trails program was established in the original ISTEA bill but has not been fully implemented due to an inconsistent funding source. In this bill we have finally authorized contract funding authority to provide moneys from the Highway Trust Fund to design, build and maintain a national trail system for both motorized and non-motorized recreational uses.

I think that the committee amendment is good legislation. It reflects many hours of diligent and thoughtful effort by the committee members, and I want to particularly acknowledge the efforts of the Transportation Committee Chairman Senator WARNER and his staff.

The committee draft includes several provisions that are of critical importance to both the Nation and my home State of Idaho. These improvements share the common themes of deregulation and decentralization as we streamline and, in some cases, eliminate existing Federal transportation regulations and mandates. Some of these changes to present law revolve around the restoration of States rights in determining how to fund, construct and manage the highways in their individual States. My own State of Idaho has struggled in the past with these very issues because we also believe that these decisions are better left to be resolved by State legislatures. Federal bureaucrats in Washington, DC seldom, if ever, have a better sense of what is appropriate in the 50 individual States than those folks who are elected locally.

We have seen over and over again that rules and regulations drafted in Washington, DC which are designed to deal with specific regional problems, but which have national application, often times are too far reaching and burdensome to a majority of the country. Prime examples of these types of mandates presently in highway legislation include the national speed limit mandate, the financial penalties for noncompliance with mandatory helmet and seat belt laws and the financial penalties for noncompliance with the crumb rubber requirement.

It is not reasonable to assume that highway conditions and demands are the same in a predominately urban and heavily populated State as they would be in a primarily rural State like Idaho. For example the needs of Atlanta, Idaho, which has a population of just 200, a single road, one bridge, and plenty of wide open spaces are quite different from the needs of Atlanta, GA which has a population of 500,000.

The application of the crumb rubber minimum utilization requirement may work in some geographic areas that do not have great temperature variations and light commercial truck volume but, in the high mountain passes of Idaho, this mandate was a failure and resulted in a waste of both Federal and State highway dollars. This Idaho crumb rubber pilot project was on U.S. 30 at the Fish Creek Summit which is situated at an elevation of 5,000 feet. Mr. Brent Frank, the Idaho DOT District 5 engineer, reported that the section of highway where crumb rubber was used displayed severe wheel rutting of up to 3 inches in depth after just 1 year. Normal wear of conventional paving materials would be 1 inch of rutting in 10 years. And, although Mr. Frank is reluctant to place the total blame for the accelerated deterioration on the recycled paving material, the Idaho DOT has suspended a second project that was to use the recycled material. There simply was not sufficient research and study conducted on this process prior to implementation of the mandate.

The good news is that each of the examples I have cited has been addressed to one degree or another in the committee bill. Several additional amendments will be offered which afford even more flexibility and discretion to local authorities to design programs that fit the needs of their constituents. I have co-sponsored two of these which deal with the repeal of financial penalties for noncompliance with Federal seat belt and helmet laws. Do I personally always use seat belts? Do I require that our children always wear seat belts? Absolutely. But I believe that this is a decision that should be made by the individual State legislatures.

These types of issues should not be decided by congressional studies or surveys, but rather on the constitutional grounds of the 10th amendment. I am unconditionally opposed to Federal edicts and mandates to the States, particularly in matters such as these where the Federal Government imposes financial penalties on States by redirecting moneys from a trust fund that was paid for by the very citizens that are being penalized.

I am hopeful that a majority of our colleagues will join in the effort to return these decisions where they belong—to the individual States.

Mr. WARNER. Mr. President, once again the managers would like to address the Senate in the hopes that we can tonight ascertain the full list of amendments that will be considered on this bill. The list as it now stands of Senators is as follows: Senator FRIST, Senator COHEN, Senator SMITH, Senator INOUYE, Senator HATFIELD, Senator MCCAIN, Senator JOHNSTON, Senator FORD, Senator GRAMS, Senator WELLSTONE, Senator STEVENS, Senator MURKOWSKI, Senator SARBANES, Senator FORD, Senator EXON, Senator BOXER, Senator CHAFEE, Senator NICKLES, and the amendment by the managers.

I ask my colleagues. Are there further amendments?

Mr. BAUCUS. Might I ask my good friend and colleague from Virginia? Does he have Senator STEVENS?

Mr. WARNER. We have Senators STEVENS and MURKOWSKI.

Mr. BAUCUS. JOHNSTON?

Mr. WARNER. Yes.

Mr. BAUCUS. Three amendments by Senator EXON?

Mr. WARNER. That is correct.

Mr. BAUCUS. JOHN KERRY?

Mr. WARNER. I suggest you add him—he was on and struck off—if you wish to put him back on.

Mr. BAUCUS. Two Boxer amendments?

Mr. WARNER. Yes.

Mr. BAUCUS. SARBANES?

Mr. WARNER. That is correct.

Mr. BAUCUS. And the managers?

Mr. WARNER. That is correct.

Mr. BAUCUS. That is the list.

Mr. WARNER. Mr. President, that is the list as we know it.

I now ask unanimous consent that that constitute the remaining amendments that can be brought up on this bill.

Mr. MURKOWSKI. Mr. President, reserving the right to object, because of our inability to resolve an issue that affects our State, not having the assurance that we can resolve this, even though I arranged for a meeting to take place tomorrow morning relative to the concerns that we have concerning that issue, I feel I must object.

Mr. WARNER. Mr. President, I remind the Senator that we have his amendment on this list. We can add a second amendment. So he can have two amendments on this list.

Mr. BAUCUS. Mr. President, I might also remind the Senator that there is no time agreement. So I think the Senator is fully protected.

Mr. WARNER. The Senator is fully protected. But it would enable the leaders in the Senate and the managers to get this bill through.

So I once again ask unanimous consent.

Mr. MURKOWSKI. Mr. President, I am sorry. This is of such importance to us. I appreciate the patience of the floor managers and the fact we are going to proceed with this tomorrow. But we have been at this for some 15 years since statehood, and we are so close to it now that unless we can reach some kind of an accord, I feel compelled to raise an objection at this time.

Mr. WARNER. If I could say one thing to my colleague at this time, let us make it clear that we have accepted one amendment from Alaska. We are going to clear it tonight. The second one, of which the Senator spoke, the Committee on Environment and Public Works has no jurisdiction whatsoever.

Am I not correct?

Mr. MURKOWSKI. That is correct.

Mr. WARNER. It is a matter that rests before the committee of which the distinguished Senator is the chairman.

Given those facts, would the Senator not be fully protected by just leaving it on the list and, therefore, we can have a unanimous consent agreement that this list constitutes the totality of all amendments?

I ask the Senator once again so we can move this bill.

Mr. MURKOWSKI. I think my friend from Virginia would recognize that in the years I have been here I have been most cooperative in trying to accommodate various Members. But this is an issue that is as important to us as any issue that we have ever had, and it is simply the right of access across Federal lands so that we can get to our private lands in the State, and there is an environmental objection from various groups that have persuaded Members that this is something they simply do not want to see addressed and resolved.

We see no other alternative other than to attempt to use every method that we can to try to bring some justice to the contract that was made when we entered into the statehood compact. The fact that we have been at this for so long, the fact that it belongs in this bill—and I recognize the comment made by the Senator from Virginia that some of the objection is within the Energy Committee, of which I happen to chair, and I hope that I will be able to prevail.

I wonder if the senior Senator from Alaska has any comments relative to this.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, reserving the right to object, I do believe we speak for the State of Utah also that has a similar problem which is very pertinent to this bill. This is the highway bill. We are trying to preserve our highway rights of way as other western States have. And we now find a new form of discrimination against us because we seek to use the rights of way created by the public over Federal lands. I think we are entitled to persist on this as long as we have to in order to get our rights recognized.

Mr. BAUCUS. Mr. President, might I inquire of the Senators from Alaska if there is some other provision we could incorporate in this agreement to accommodate them? They are protected. They now have an opportunity to offer an amendment. There is no time agreement.

I wonder if there is anything else we might consider at this point that the Senators would like to suggest that we could possibly incorporate in this agreement so that we can accommodate the Senator's interest.

Mr. STEVENS. Mr. President, reserving the right to object again, I am waiting for some information from our State and from our offices in the State regarding this matter. I thought we were on our way to settling this earlier today. We are not. We have to get a considerable amount of material in. We will not get it in tonight. We do operate on a situation where, you will recall, it is 4 hours earlier in our State. But we still are in the situation where we have to wait until they open in the morning and send us the information.

I do think it is not an unreasonable request that we be permitted to have the time necessary to deal with this objection. We just heard this afternoon.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, the Senator from Montana made a suggestion, if we could agree on the other amendments, to have the Senator from Alaska have the right to offer an amendment any time before final disposition of the bill, and that will give them time to decide precisely what amendment, if any, they wish to offer. Of course, the materials are not here. You are not going to let the bill go to final disposition. At least we would have a partial cap on the amendments.

I think the managers are prepared to stay here tonight and not have any more votes but to accept some amendments that may be pending.

Mr. MURKOWSKI. Mr. President, reserving the right to object, I shall not object, but it is just simply inconceivable and unacceptable to those of us in Alaska that this basic right that we were guaranteed under the statehood compact that we go out and identify those traditional trails, winter trails, access wagon roads, across Federal lands that have been utilized and those that have been completed—some 500 and some have been documented—and submitted, that we cannot consummate what was guaranteed under the Statehood Act.

It is very disappointing to me to find objections from other Senators that are strictly based on the feeling that this is a giant land grab. This is nothing more than the opportunity for the citizens of the State to traverse Federal land so they can get to their private land, so they can get to the State land.

It is something every single State—at least in the western United States—which had any public land has enjoyed. And we simply cannot understand why it is not acceptable.

Mr. STEVENS. Reserving the right to object, Mr. President, I shall not object, if the suggestion under the majority leader is incorporated—in other words, if we are not limited in the solution we may want to offer to this bill to this problem. We do not want to be tied down to just one amendment or amendments that might not be in order in terms of the circumstances that might be developed under this unanimous-consent agreement.

My understanding is that the leader has suggested we be permitted to offer an amendment or amendments to deal with the problems we have been talking about, and there will be no time limit on the bill under the circumstances of the agreement.

I do not object.

Mr. WARNER. Mr. President, I renew the request.

Mrs. BOXER. Mr. President, will the Senator yield?

I have a similar situation. I have two amendments pending. I am very willing to go with this approach. It would be very important to have the request for the amendments of the Senators from Alaska incorporated, so that, if we find another way to stop a problem, we are not inhibited from doing so.

Mr. WARNER. Mr. President, I renew the unanimous consent request as amended by the colloquy between the distinguished majority leader, the Senator from Alaska, and the Senator from California.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, reserving the right to object.

Mr. LAUTENBERG. Reserving the right to object, I have an amendment that I would like considered and I would like it placed on the list as well.

Mr. WARNER. Mr. President, I amend the unanimous consent request to include the Senator from New Jersey.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I also suggest to my good colleague that that request be subject to the usual parameters of the previous agreement, that is, the parameters of order No. 114, essentially that the following amendments be the only first-degree amendments in order and subject to relevant second degree, et cetera—the same parameters that are contained in order 114 of today.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

Mr. WARNER. Now, Mr. President, the managers are prepared to continue consideration of amendments. We have several amendments which can be cleared, and we will proceed to do that expeditiously.

Mr. DOLE. Is it fair to announce there will be no more votes this evening?

Mr. WARNER. Correct.

Mr. DOLE. There will be no more votes tonight.

AMENDMENT NO. 1455

(Purpose: To include the Dalton Highway in Alaska in the designation of the National Highway System)

Mr. WARNER. Mr. President, I send to the desk an amendment on behalf of the Senator from Alaska.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. STEVENS, proposes an amendment numbered 1455.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 36, on line 12, strike the quotation mark and second period and insert:

''(24) The Dalton Highway from Deadhorse, Alaska to Fairbanks, Alaska.''.

Mr. WARNER. I believe this amendment has been cleared by the distinguished Senator from Montana.

Mr. BAUCUS. Mr. President, it has been cleared. I urge its adoption.

Mr. STEVENS. Mr. President, I am grateful to the managers for accepting this amendment. It merely clarifies the status of the road that parallels the Alaska pipeline, an Alaska highway that can be the subject of expenditure of Federal highway funds.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I believe the vote is in order, and I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

Without objection, the amendment is agreed to.

So the amendment (No. 1455) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask further proceedings under the quorum call be dispensed with.

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

AMENDMENT NO. 1456

Mr. CHAFEE. Mr. President, on behalf of the Senator from California, Mrs. BOXER, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mrs. BOXER, proposes an amendment numbered 1456.

Mr. CHAFEE. I ask further reading of the amendment be dispensed with.

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

The amendment is as follows:

In the appropriate place, insert the following: ''At the end of section 5309(g)(4) of title 49, U.S.C., add the following new sentence: 'The Secretary may enter future obligations in excess of 50 percent of said uncommitted cash balance for the purpose of contingent commitments for projects authorized under section 3032 of Public Law 102–240'.''

Mr. CHAFEE. This is an amendment that has been cleared by both sides and is acceptable.

Mr. BAUCUS. The Senator is correct. This is offered on behalf of Senator BOXER dealing with future obligations. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

So the amendment (No. 1456) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1457

(Purpose: To maintain eligibility under the congestion mitigation and air quality improvement program for areas that received funding during fiscal year 1994 and are nonattainment areas that have been redesignated as maintenance areas)

Mr. CHAFEE. Mr. President, on behalf of the Senator from Tennessee, Mr. FRIST, Mr. FAIRCLOTH, Mr. HELMS and Mr. THOMPSON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. FRIST, for himself, Mr. FAIRCLOTH, Mr. HELMS and Mr. THOMPSON, proposes an amendment numbered 1457.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 26, line 3, strike ''1995'' and insert ''1994''.

On page 26, line 8, strike ''1995'' and insert ''1994''.

On page 26, between lines 13 and 14, insert the following:

(c) EFFECT OF LIMITATION ON APPORTIONMENT.—Notwithstanding any other law, for each of fiscal years 1996 and 1997, any limitation under this section or an amendment made by this section on an apportionment otherwise authorized under section 1003(a)(4) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1919) shall not affect any hold harmless apportionment adjustment under section 1015(a) of the Act (Public Law 102–240; 105 Stat. 1943).

Mr. WARNER. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

So the amendment (No. 1457) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1458

(Purpose: To make an amendment relating to the operating costs of the Boston-to-Portland rail corridor)

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. WARNER. Mr. President, if I might interject, I believe this is an amendment by Mr. COHEN of Maine.

I believe the Senator from Virginia is correct that it is now an amendment on behalf of Mr. COHEN, and I request that the clerk so amend the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. COHEN, proposes an amendment numbered 1458.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . AVAILABILITY OF CERTAIN FUNDS FOR BOSTON-TO-PORTLAND RAIL CORRIDOR.

Section 5309 of title 49, United States Code, is amended by adding at the end of the following new subsection:

''(p) BOSTON-TO-PORTLAND RAIL CORRIDOR.—Notwithstanding any other provision of law, up to $3,600,000 of the funds made available under this section for the rail corridor between Boston, Massachusetts and Portland, Maine may be used to pay for operating costs arising in connection with such rail corridor under section 5333(b).''.

Mr. WARNER. I appreciate the indulgence of the Chair, and also the staff of the Senate. It appears that that should now be an amendment by the Senator from Maine, Mr. COHEN, and the Senator from Massachusetts, Mr. KERRY. I ask unanimous consent that the clerk so amend the amendment.

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

Mr. WARNER. I am advised Senator SNOWE likewise wishes to be a cosponsor. I ask unanimous consent that she be added as a cosponsor.

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

Mr. WARNER. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

So the amendment (No. 1458) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1459

(Purpose: To make an amendment relating to surface transportation projects in the State of Hawaii)

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. INOUYE, for himself and Mr. AKAKA, proposes an amendment numbered 1459.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1___. REVISION OF AUTHORITY OF MULTIYEAR CONTRACTS.

Section 3035(ww) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2136) is amended by adding at the end the following: ''Of the funds provided by this subsection, $100,000,000 is authorized to be appropriated for regionally significant ground transportation projects in the State of Hawaii.''.

Mr. BAUCUS. Mr. President, this is an amendment relating to surface transportation projects in the State of Hawaii. We have examined this amendment and agree to its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

So the amendment (No. 1459) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1460

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. JOHNSTON, for himself and Mr. BREAUX, proposes an amendment numbered 1460.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

Add new section as follows:

Notwithstanding any other provisions of law, section 1105(e)(2) of Public Law 102–240 is amended by adding at the end the following new sentence: ''A feasibility study may be conducted under this subsection to identify routes that will expedite future emergency evacuations of coastal areas of Louisiana.''

Mr. BAUCUS. Mr. President, this is a feasibility study which I think merits our consideration and approval. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

So the amendment (No. 1460) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1461

(Purpose: To modify the authorization for a demonstration project in Minnesota)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. Grams, for himself and Mr. WELLSTONE, proposes an amendment numbered 1461.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . 34TH STREET CORRIDOR PROJECT IN MOORHEAD, MINNESOTA.

Section 149(a)(5)(A) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 181) is amended—

(1) in clause (i), by striking ''and'' at the end; and

(2) by inserting ''and (iii) a safety overpass,'' after ''interchange,''.

The PRESIDING OFFICER. Is there further debate?

Without objection, the amendment is agreed to.

So the amendment (No. 1461) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. CHAFEE. Mr. President, I now ask unanimous consent there be a period for morning business.

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

REGULATORY REFORM

Mr. DOLE. Mr. President, I have stated several times my intention to move as soon as possible to the regulatory reform bill. Regulatory reform is one of the most important issues this Congress will face, and the American people have made clear that they expect us to act. Regulatory reform does not have to be a partisan issue.

Democrats and Republicans alike have seen a need to inject common sense into how the Federal Government crafts regulations. Democrats and Republicans alike recognize that we cannot continue to bear $500 billion of added costs to the economy. That is why I believe it is important that we pass a strong regulatory reform bill, with bipartisan support.

Senator HEFLIN, for example, has provided welcome leadership in helping to craft this bill. I have been working with Senator JOHNSTON for some time to produce a strong regulatory reform package, in order to ensure that Congress answers America's call for relief.

I am pleased to say that I think Senator JOHNSTON and I have reached an agreement on at least a discussion draft, a package that we believe will enjoy broad support. My intention would be to, as soon as the draft is completed, ask that the draft be printed in the RECORD today so that everybody might have an opportunity to see it. Earlier this year, we had a dispute because not all Members had seen a draft on an earlier piece of legislation. Hopefully, by Tuesday of next week, we can bring that bill to the floor and try to complete it by the end of next week. We can put that into the RECORD today.

Again, this is a draft. We reached an agreement on this. It does not mean it may be the perfect answer or there may not be change between now and next Tuesday. I have talked to some of my colleagues on the other side, such as the Senator from Massachusetts, Senator KERRY, and many are wanting an opportunity to see what the draft is. By printing it in the RECORD, it will be available tomorrow, Friday, Saturday, Sunday and Monday and, hopefully, we can go to it on Tuesday.

I have suggested, and the Senator from Louisiana suggested, that we make that statement on the floor.

I yield to Senator JOHNSTON.

Mr. JOHNSTON. I thank the distinguished leader for his statement. He is correct that he and I have agreed upon a draft. It has been arrived at after extensive conversations, negotiations and

writing, and we have worked in over 100 amendments to the underlying text. I hope my colleagues like the result, and I have reason to suspect that they will.

I would like to emphasize and ask the majority leader, if he does not agree with this—that this is, in fact, a discussion draft, and that we invite input from all of our colleagues. By filing this to be printed, it is simply a matter of giving notice to colleagues of what is in the discussion draft. It is not the filing of the bill or the filing of an amendment. But it is a filing of notice, so that all of those who have meaningful input can work through the process and, hopefully, we will be able to improve the bill, so that by the time a bill or an amendment is filed, it will contain the suggestions of our colleagues, if we can agree upon those suggestions. Am I correct on that?

Mr. DOLE. Let me respond to that. The Senator is correct. I will underscore that this is a very significant effort. I do not want to downplay the importance of the draft, because it is important. It is a result of a lot of work on behalf of a lot of people on both sides of the aisle.

I do not want to suggest we are going to rewrite the whole thing. It is important. It has not been completed, and it could be improved, some would say by making it stronger, or there may be another way to improve it.

If there is no objection, I will ask unanimous consent later to have it printed. It is not completed yet. That will appear in the RECORD tomorrow morning and, hopefully, we can continue discussions tomorrow and Friday and again on Monday, so that on Tuesday we might be prepared to take the bill up with fairly broad bipartisan support.

Mr. JOHNSTON. Mr. President, I thank the leader for his statement. I thank him especially for the attitude of cooperation in the drafting of this ''discussion draft'' because the leader did not come in as a man with 56 votes in his pocket, the majority of votes, and do it his way; but rather, the input which I have had from this side of the aisle I tried to faithfully follow, and tried to compromise. Not everything went our way, and not everything went the Senator's way.

I really believe this is an excellent bill that I can enthusiastically support, and I hope my colleagues can improve, significantly, or in whatever ways they choose.

I think we have a draft that is going to attract some wide bipartisan support. I certainly hope so. From my part, I solicit and welcome any suggestions which I will faithfully try to negotiate to improve the bill, if any such suggestions are made.

Mr. DOLE. Again, I thank my colleague from Louisiana. He spent a lot more time on this this week than I. I know, for example, the many, many hours the Senator from Louisiana spent.

I also wanted to recognize the efforts of the Senator from Utah, Senator HATCH; the Senator from Delaware, Senator ROTH; the Senator from Alaska, Senator MURKOWSKI; the Senator from Oklahoma, Senator NICKLES; the Senator from Missouri, Senator BOND; the Senator from Alabama, Senator HEFLIN, whom I have already alluded to, and a number of others on this side, including the Senator from Georgia, Senator COVERDELL, who has been working in, I think, a very bipartisan way to try to find something we can agree on.

This is very important legislation. We hope we can have a bipartisan bill.

Mr. DASCHLE. Mr. President, Senator DOLE has laid out his plans having to do with the next piece of legislation, and I know a couple of our colleagues were hoping to comment on that.

Mr. DOLE. I am happy to yield to the Senator from Massachusetts.

Mr. KERRY. Mr. President, I would like to thank the majority leader and the Senator from Louisiana. I think this is a very positive and constructive step, to print the bill as a draft proposal rather than enter it as a piece of legislation at this point. I thank them for doing that.

I think the key here—as the majority leader has said, this is definitely one of the most sweeping and important pieces of legislation that we have yet considered—I think it is essential that we have an opportunity to try to guarantee that in the next few days, we come together as a working group to see if the product that will come to the floor as a bill, finally introduced, reflects the maximum amount of changes possible in the good spirit of bipartisan compromise.

I note for the majority leader that last year, we passed a cost-benefit definition by a vote of 0 to 8. I was pleased to vote for that. I think we ought to be able to, if we work in the next few days, to approach this bill with that same concept.

One of the fears that some Members have at this point is that there is enough layering of judicial involvement here that at a time when we are moving forward—securities reform, product liability reform, tort reform—we are suddenly perhaps creating a whole new avenue of tort possibilities.

I will simply ask the majority leader if, in the spirit of printing this, it is also his intention to now engage, in a couple of days, together with the Senator from Louisiana, with the Senator from Michigan, the Senator from Ohio, and others who are interested, in trying to see if we can pare down some of those differences that might help to truly make the final product introduced a bipartisan effort.

Mr. DOLE. Mr. President, I respond in the affirmative to the Senator from Massachusetts.

That is why I will ask consent later this evening, when we have the draft completed, so that we would have Thursday and Friday, and staff could have whatever time over the weekend and again on Monday, for the principals to see if we can come together.

We may not be able to come together. Maybe it will not happen next Tuesday. As I understand, a lot of people have been working on this in good faith, and all have not been in the same room but have been in different rooms in different groups.

That is based on the suggestion made by the Senator from Massachusetts earlier today. I think we agreed that we would not push it, we would not try to start on a bill tomorrow, but we would put it in the RECORD, a draft. It may not be the one that is introduced next week. The answer is yes.

Mr. KERRY. I think that is constructive. I thank the majority leader. He has certainly pledged to try to work in good faith to see if we can reach agreements.

Mr. GLENN. Mr. President, I want to add a couple of comments here. I think we have been at this on two tracks. There was a lot of regulatory reform legislation put in this year and considered in the Governmental Affairs Committee. We came out with a bill.

Another bill went through the Judiciary Committee process which is the one that the distinguished majority leader is referring to, that he and Senator JOHNSTON have been working on.

Now there has been a dual track going on. In addition to the Judiciary Committee bill, some have also been working on the bill that came out of the Governmental Affairs Committee, and it was voted unanimously out of Governmental Affairs with both Republican and Democratic support, a unanimous vote.

Now, we have taken that bill and done some work on it, and we think we have made some pretty good improvements.

It is ready. I will not submit it today, in view of what the majority leader has proposed here. But there have been two tracks. All of the work with regard to regulatory reform has not been centered on just the one bill that will be submitted today. I wanted to point that out to my colleagues.

I am happy to work with the Senator from Louisiana, as well as the majority leader, in trying to work this thing out and get the best of all of this legislation together if we possibly can do it. Whether that can be done in time enough to bring a completed form to the floor by next Tuesday, I do not know. But we can sure take a crack at it and see.

I just want to point out we do have this other effort. And the bill that we have been working on——

Mr. KERRY. Will the Senator yield for a moment?

Mr. GLENN. Just one more comment and I will yield the floor. We do have this other bill ready to go, in case we cannot negotiate these things out. I think it is a pretty good bill. We have given a lot of thought to it and have changed some of the things for which I know there was some objection.

With that I yield the floor.

Mr. JOHNSTON. Will the Senator yield? Will the Senator from Ohio yield?

Mr. JOHNSTON addressed the chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, in response to the Senator from Ohio I might say the excellent work he and Senator ROTH and the members of the Governmental Affairs Committee did was very much a matter of concern and negotiation to us on this bill. Particularly the judicial review, the recommendations which will appear in this draft are, really, motivated by the good work the Senator from Ohio and Senator ROTH did in their bill. So it is not that we considered only the Judiciary product.

To the contrary, the good work that went in the Roth-Glenn bill we sought to incorporate in this bill—I hope successfully. But to the extent it can be improved we solicit and invite those comments and suggestions.

Mr. LEVIN. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes, of course.

Mr. LEVIN. Let me just first commend the Senator from Louisiana and the majority leader for the process they are now undertaking. This is a process which submits a draft to the CONGRESSIONAL RECORD printer so we all can look at it and make suggestions to them for changes before it is introduced as a bill. I think that is the right process and holds out at least some hope that there could be a broad, bipartisan consensus behind the regulatory reform bill.

There is a broad, bipartisan consensus that we need regulatory reform. I think almost all of us have voted for it in one version or another. I have worked closely with my friend from Louisiana, as a matter of fact, over the years on some regulatory reform issues. But I think the fact they are going through this discussion draft stage first, before it is introduced as a bill, with the representation that they are open to suggestions from people on both sides of the aisle with points of view on that draft before they finally agree on a final bill, I think is an important step forward. Then, if that does not work out there will be, of course, time for alternatives then to be offered.

I thank my friend from Louisiana and the majority leader.

Mr. KERRY. Mr. President, just before we close off on the subject, it is my understanding from the conversations that we had privately on this, but I think I am not violating any of them to say that at this moment the expectancy is that whatever does come to the floor will be truly open to the full legislative process and not prejudged in a way we find with just a series of tabling motions and there is no legislative effort. Am I correct in that also?

Mr. JOHNSTON. The Senator is correct. But more than that, we solicit these comments in advance of filing the bill. That is an easier time and place to get this done.

Mr. KERRY. I could not agree with the Senator more.

Mr. JOHNSTON. Mr. President, I imagine there are going to be a lot of amendments. This is a huge and vitally important bill where each word carries tremendous meaning and where experts are going to look at it and be able to suggest improvements. For my part I think there are a lot of improvements that can be made. There are a lot of things I would like to change.

For example, we have a $50 million threshold for rules. I think it ought to be higher. That was a matter of compromise. And I hope we can discuss that seriously before we get to the floor or at least on the floor.

So the Senator is correct, it is open for serious negotiations before we file it, and after it is filed of course it is open for amendment. And I hope we will do it in a very bipartisan way and expect we will.

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

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

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Comprehensive Regulatory Reform Act of 1995''.

SEC. 2. DEFINITIONS.

Section 551 of title 5, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ''this subchapter'' and inserting ''this chapter and chapters 7 and 8'';

(2) in paragraph (13), by striking ''and'';

(3) in paragraph (14), by striking the period at the end and inserting ''; and''; and

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

''(15) 'Director' means the Director of the Office of Management and Budget.''.

SEC. 3. RULEMAKING.

Section 553 of title 5, United States Code, is amended to read as follows:

''§ 553. Rulemaking

''(a) APPLICABILITY.—This section applies to every rulemaking, according to the provisions thereof, except to the extent that there is involved—

''(1) a matter pertaining to a military or foreign affairs function of the United States;

''(2) a matter relating to the management or personnel practices of an agency;

''(3) an interpretive rule, general statement of policy, guidance, or rule of agency organization, procedure, or practice, unless such rule, statement, or guidance has general applicability and substantially alters or creates rights or obligations of persons outside the agency; or

''(4) a rule relating to the acquisition, management, or disposal by an agency of real or personal property, or of services, that is promulgated in compliance with applicable criteria and procedures.

''(b) NOTICE OF PROPOSED RULEMAKING.—General notice of proposed rulemaking shall be published in the Federal Register, unless all persons subject thereto are named and either personally served or otherwise have actual notice of the proposed rulemaking in accordance with law. Each notice of proposed rulemaking shall include—

''(1) a statement of the time, place, and nature of public rulemaking proceedings;

''(2) a succinct explanation of the need for and specific objectives of the proposed rule, including an explanation of the agency's determination of whether or not the rule is a major rule within the meaning of section 621(5);

''(3) a succinct explanation of the specific statutory basis for the proposed rule, including an explanation of—

''(A) whether the interpretation is clearly required by the text of the statute; or

''(B) if the interpretation is not clearly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and an explanation why the interpretation selected by the agency is the agency's preferred interpretation;

''(4) the terms or substance of the proposed rule;

''(5) a summary of any initial analysis of the proposed rule required to be prepared or issued pursuant to chapter 6;

''(6) a statement that the agency seeks proposals from the public and from State and local governments for alternative methods to accomplish the objectives of the rulemaking that are more effective or less burdensome than the approach used in the proposed rule; and

''(7) a statement specifying where the file of the rulemaking proceeding maintained pursuant to subsection (j) may be inspected and how copies of the items in the file may be obtained.

''(c) PERIOD FOR COMMENT.—The agency shall give interested persons not less than 60 days after providing the notice required by subsection (b) to participate in the rulemaking through the submission of written data, views, or arguments.

''(d) GOOD CAUSE EXCEPTION.—Unless notice or hearing is required by statute, a final rule may be adopted and may become effective without prior compliance with subsections (b) and (c) and (e) through (g) if the agency for good cause finds that providing notice and public procedure thereon before the rule becomes effective is impracticable, unnecessary, or contrary to the public interest. If a rule is adopted under this subsection, the agency shall publish the rule in the Federal Register with the finding and a succinct explanation of the reasons therefor.

''(e) PROCEDURAL FLEXIBILITY.—To collect relevant information, and to identify and elicit full and representative public comment on the significant issues of a particular rulemaking, the agency may use such other procedures as the agency determines are appropriate, including—

''(1) the publication of an advance notice of proposed rulemaking;

''(2) the provision of notice, in forms which are more direct than notice published in the Federal Register, to persons who would be substantially affected by the proposed rule but who are unlikely to receive notice of the proposed rulemaking through the Federal Register;

''(3) the provision of opportunities for oral presentation of data, views, information, or rebuttal arguments at informal public hearings, meetings, and round table discussions, which may be held in the District of Columbia and other locations;

''(4) the establishment of reasonable procedures to regulate the course of informal public hearings, meetings and round table discussions, including the designation of representatives to make oral presentations or engage in direct or cross-examination on behalf of several parties with a common interest in a rulemaking, and the provision of transcripts, summaries, or other records of

all such public hearings and summaries of meetings and round table discussions;

''(5) the provision of summaries, explanatory materials, or other technical information in response to public inquiries concerning the issues involved in the rulemaking; and

''(6) the adoption or modification of agency procedural rules to reduce the cost or complexity of the procedural rules.

''(f) PLANNED FINAL RULE.—If the provisions of a final rule that an agency plans to adopt are so different from the provisions of the original notice of proposed rulemaking that the original notice did not fairly apprise the public of the issues ultimately to be resolved in the rulemaking or of the substance of the rule, the agency shall publish in the Federal Register a notice of the final rule the agency plans to adopt, together with the information relevant to such rule that is required by the applicable provisions of this section and that has not previously been published in the Federal Register. The agency shall allow a reasonable period for comment on such planned final rule prior to its adoption.

''(g) STATEMENT OF BASIS AND PURPOSE.—An agency shall publish each final rule it adopts in the Federal Register, together with a concise statement of the basis and purpose of the rule and a statement of when the rule may become effective. The statement of basis and purpose shall include—

''(1) an explanation of the need for, objectives of, and specific statutory authority for, the rule;

''(2) a discussion of, and response to, any significant factual or legal issues presented by the rule, or raised by the comments on the proposed rule, including a description of the reasonable alternatives to the rule proposed by the agency and by interested persons, and the reasons why each such alternative was rejected;

''(3) a succinct explanation of whether the specific statutory basis for the rule is expressly required by the text of the statute, or if the specific statutory interpretation upon which the rule is based is not expressly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and why the agency has rejected other interpretations proposed in comments to the agency;

''(4) an explanation of how the factual conclusions upon which the rule is based are substantially supported in the rulemaking file; and

''(5) a summary of any final analysis of the rule required to be prepared or issued pursuant to chapter 6.

''(h) NONAPPLICABILITY.—In the case of a rule that is required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 shall apply in lieu of subsections (c), (e), (f), and (g).

''(i) EFFECTIVE DATE.—An agency shall publish the final rule in the Federal Register not later than 60 days before the effective date of such rule. An agency may make a rule effective in less than 60 days after publication in the Federal Register if the rule grants or recognizes an exemption, relieves a restriction, or if the agency for good cause finds that such a delay in the effective date would be contrary to the public interest and publishes such finding and an explanation of the reasons therefor, with the final rule.

''(j) RULEMAKING FILE.—(1) The agency shall maintain a file for each rulemaking proceeding conducted pursuant to this section and shall maintain a current index to such file.

''(2) Except as provided in subsection (k), the file shall be made available to the public not later than the date on which the agency makes an initial publication concerning the rule.

''(3) The rulemaking file shall include—

''(A) the notice of proposed rulemaking, any supplement to, or modification or revision of, such notice, and any advance notice of proposed rulemaking;

''(B) copies of all written comments received on the proposed rule;

''(C) a transcript, summary, or other record of any public hearing conducted on the rulemaking;

''(D) copies, or an identification of the place at which copies may be obtained, of factual and methodological material that pertains directly to the rulemaking and that was considered by the agency in connection with the rulemaking, or that was submitted to or prepared by or for the agency in connection with the rulemaking; and

''(E) any statement, description, analysis, or other material that the agency is required to prepare or issue in connection with the rulemaking, including any analysis prepared or issued pursuant to chapter 6.

The agency shall place each of the foregoing materials in the file as soon as practicable after each such material becomes available to the agency.

''(k) CONFIDENTIAL TREATMENT.—The file required by subsection (j) need not include any material described in section 552(b) if the agency includes in the file a statement that notes the existence of such material and the basis upon which the material is exempt from public disclosure under such section. The agency may not substantially rely on any such material in formulating a rule unless it makes the substance of such material available for adequate comment by interested persons. The agency may use summaries, aggregations of data, or other appropriate mechanisms to protect the confidentiality of such material to the maximum extent possible.

''(*l*) RULEMAKING PETITION.—(1) Each agency shall give an interested person the right to petition—

''(A) for the issuance, amendment, or repeal of a rule;

''(B) for the amendment or repeal of an interpretive rule or general statement of policy or guidance;

''(C) for an interpretation regarding the meaning of a rule, interpretive rule, general statement of policy, or guidance; and

''(D) for a variance or exemption from the terms of a rule to which the petitioner is otherwise subject, provided the statute authorizing the rule does not prohibit a variance or exemption.

''(2) The agency shall grant or deny a petition made pursuant to paragraph (1), and give written notice of its determination to the petitioner, with reasonable promptness, but in no event later than 18 months after the petition was received by the agency.

''(3) The written notice of the agency's determination shall include an explanation of the determination and a response to each significant factual and legal claim that forms the basis of the petition.

''(m) JUDICIAL REVIEW.—(1) The decision of an agency to use or not to use procedures in a rulemaking under subsection (e) shall not be subject to judicial review.

''(2) The rulemaking file required under subsection (j) shall constitute the rulemaking record for purposes of judicial review.

''(3) No court shall hold unlawful or set aside an agency rule based on a violation of subsection (j), unless the court finds that such violation has precluded fair public consideration of a material issue of the rulemaking taken as a whole.

''(4)(A) Judicial review of compliance or noncompliance with subsection (j) shall be limited to review of action or inaction on the part of an agency.

''(B) A decision by an agency to deny a petition under subsection (*l*) shall be subject to judicial review immediately upon denial, as final agency action under the statute granting the agency authority to carry out its action.

''(n) CONSTRUCTION.—(1) Notwithstanding any other provision of law, this section shall apply to and supplement the procedures governing informal rulemaking under statutes that are not generally subject to this section.

''(2) Nothing in this section authorizes the use of appropriated funds available to any agency to pay the attorney's fees or other expenses of persons intervening in agency proceedings.''.

SEC. 4. ANALYSIS OF AGENCY RULES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER II—ANALYSIS OF AGENCY RULES

''§ 621. Definitions

''For purposes of this subchapter—

''(1) except as otherwise provided, the definitions under section 551 shall apply to this subchapter;

''(2) the term 'benefit' means the reasonably identifiable significant favorable effects, including social, environmental, and economic effects, that are expected to result directly or indirectly from implementation of a rule or other agency action;

''(3) the term 'cost' means the reasonably identifiable significant adverse effects, including social, environmental, and economic costs, that are expected to result directly or indirectly from implementation of a rule or other agency action;

''(4) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition;

''(5)(A) the term 'major rule' means—

''(i) a rule or set of closely related rules that the agency proposing the rule, the Director, or a designee of the President determines is likely to have a gross annual effect on the economy of $50,000,000 or more in reasonably quantifiable increased costs;

''(ii) a rule that is otherwise designated a major rule by the agency proposing the rule, the Director, or a designee of the President;

''(B) a designation or failure to designate under subparagraph (A)(ii) shall not be subject to judicial review; or

''(6) the term 'market-based mechanism' means a regulatory program that—

''(A) imposes legal accountability for the achievement of an explicit regulatory objective on each regulated person;

''(B) affords maximum flexibility to each regulated person in complying with mandatory regulatory objectives, which flexibility shall, where feasible and appropriate, include, but not be limited to, the opportunity to transfer to, or receive from, other persons, including for cash or other legal consideration, increments of compliance responsibility established by the program; and

''(C) permits regulated persons to respond to changes in general economic conditions and in economic circumstances directly pertinent to the regulatory program without affecting the achievement of the program's explicit regulatory mandates;

''(7) the term 'performance-based standards' means requirements, expressed in

terms of outcomes or goals rather than mandatory means of achieving outcomes or goals, that permit the regulated entity discretion to determine how best to meet specific requirements in particular circumstances;

''(8) the term 'reasonable alternatives' means the range of regulatory options that the agency has authority to consider under the statute granting rulemaking authority, including flexible regulatory options of the type described in section 622(c)(2)(C)(iii), unless precluded by the statute granting the rulemaking authority; and

''(9) the term 'rule' has the same meaning as in section 551(4), and—

''(A) includes any statement of general applicability that substantially alters or creates rights or obligations of persons outside the agency; and

''(B) does not include—

''(i) a rule that involves the internal revenue laws of the United States;

''(ii) a rule or agency action that authorizes the introduction into commerce, or recognizes the marketable status, of a product;

''(iii) a rule exempt from notice and public procedure under section 553(a);

''(iv) a rule or agency action relating to the public debt;

''(v) a rule required to be promulgated at least annually pursuant to statute, or that provides relief, in whole or in part, from a statutory prohibition, other than a rule promulgated pursuant to subtitle C of title II of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.);

''(vi) a rule of particular applicability that approves or prescribes the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

''(vii) a rule relating to monetary policy or to the safety or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k))), credit unions, Federal Home Loan Banks, government sponsored housing enterprises, farm credit institutions, foreign banks that operate in the United States and their affiliates, branches, agencies, commercial lending companies, or representative offices, (as those terms are defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101));

''(viii) a rule relating to the payment system or the protection of deposit insurance funds or the farm credit insurance fund;

''(ix) any order issued in a rate or certificate proceeding by the Federal Energy Regulatory Commission, or a rule of general applicability that the Federal Energy Regulatory Commission certifies would increase reliance on competitive market forces or reduce regulatory burdens; or

''(x) a rule relating to the financial responsibility of brokers and dealers, the safeguarding of investor securities and funds, the clearance and settlement of securities transactions, or the suspension of trading that is promulgated under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), or a rule relating to the protection of the Securities Investor Protection Corporation, that is promulgated under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.).

''§ 622. Rulemaking cost-benefit analysis

''(a) DETERMINATION OF MAJOR RULE.—Prior to publishing a notice of proposed rulemaking for any rule (or, in the case of a notice of proposed rulemaking that has been published but not issued on or before the date of enactment of this subchapter, not later than 30 days after such date of enactment), each agency shall determine whether the rule is or is not a major rule within the meaning of section 621(5)(A)(i) and, if it is not, whether it should be designated as a major rule under section 621(5)(A)(ii).

''(b) DESIGNATION.—(1) If an agency has determined that a rule is not a major rule within the meaning of section 621(5)(A)(i) and has not designated the rule as a major rule within the meaning of section 621(5)(A)(ii), the Director or a designee of the President may, as appropriate, determine that the rule is a major rule or designate the rule as a major rule not later than 30 days after the publication of the notice of proposed rulemaking for the rule (or, in the case of a notice of proposed rulemaking that has been published on or before the date of enactment of this subchapter, not later than 1 year after such date of enactment).

''(2) Such determination or designation shall be published in the Federal Register, together with a succinct statement of the basis for the determination or designation.

''(c) INITIAL COST-BENEFIT ANALYSIS.—(1)(A) When the agency publishes a notice of proposed rulemaking for a major rule, the agency shall issue and place in the rulemaking file an initial cost-benefit analysis, and shall include a summary of such analysis in the notice of proposed rulemaking.

''(B)(i) When an agency, the Director, or a designee of the President has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.

''(ii) Following the issuance of an initial cost-benefit analysis under clause (i), the agency shall give interested persons an opportunity to comment in the same manner as if the initial cost-benefit analysis had been issued with the notice of proposed rulemaking.

''(2) Each initial cost-benefit analysis shall contain—

''(A) a succinct analysis of the benefits of the proposed rule, including any beneficial effects that cannot be quantified, and an explanation of how the agency anticipates such benefits will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

''(B) a succinct analysis of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates such costs will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs;

''(C) a succinct description (including an analysis of the costs and benefits) of reasonable alternatives for achieving the identified benefits of the proposed rule, including, where such alternatives exist, alternatives that—

''(i) require no government action, where the agency has discretion under the statute granting the rulemaking authority not to promulgate a rule;

''(ii) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply;

''(iii) employ performance-based standards, market-based mechanisms, or other flexible regulatory options that permit the greatest flexibility in achieving the regulatory result that the statutory provision authorizing the rule is designed to produce; or

''(iv) employ voluntary standards;

''(D) in any case in which the proposed rule is based on one or more scientific evaluations, scientific information, or a risk assessment, or is subject to the risk assessment requirements of subchapter III, a description of the actions undertaken by the agency to verify the quality, reliability, and relevance of such scientific evaluation, scientific information, or risk assessment; and

''(E) an explanation of whether the proposed rule is likely to meet the decisional criteria of section 624.

''(d) FINAL COST-BENEFIT ANALYSIS.—(1) When the agency publishes a final major rule, the agency shall also issue and place in the rulemaking file a final cost-benefit analysis, and shall include a summary of the analysis in the statement of basis and purpose.

''(2) Each final cost-benefit analysis shall contain—

''(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking record, including flexible regulatory options of the type described in subsection (c)(2)(C)(iii), and a description of the persons likely to receive such benefits and bear such costs; and

''(B) an analysis, based upon the rulemaking record considered as a whole, of whether and how the rule meets the decisional criteria in section 624.

''(3) In considering the benefits and costs, the agency, when appropriate, shall consider the benefits and costs incurred by all of the affected persons or classes of persons (including specially affected subgroups).

''(e) REQUIREMENTS FOR COST-BENEFIT ANALYSES.—(1)(A) The description of the benefits and costs of a proposed and a final rule required under this section shall include, to the extent feasible, a quantification or numerical estimate of the quantifiable benefits and costs. The analysis shall take into account only costs and benefits that are reasonably related to the effect that the statute under which the rulemaking is authorized is designed to produce.

''(B) The quantification or numerical estimate shall—

''(i) be made in the most appropriate unit of measurement, using comparable assumptions, including time periods;

''(ii) specify the ranges of predictions; and

''(iii) explain the margins of error involved in the quantification methods and the uncertainties and variabilities in the estimates used.

''(C) An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a final rule pursuant to this section in as precise and succinct a manner as possible.

''(D) The agency evaluation of the relationship of benefits to costs shall be clearly articulated.

''(E) An agency shall not be required to make such evaluation primarily on a mathematical or numerical basis.

''(2) Where practicable and when understanding industry-by-industry effects is of central importance to a rulemaking, the description of the benefits and costs of a proposed and final rule required under this section shall describe such benefits and costs on an industry-by-industry basis.

''(f) HEALTH, SAFETY, OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) A major rule may be adopted and may become effective without prior compliance with this subchapter if—

''(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources; and

''(B) the agency publishes in the Federal Register, together with such finding, a succinct statement of the basis for the finding.

''(2) Not later than 180 days after the promulgation of a final major rule to which this

section applies, the agency shall comply with the provisions of this subchapter and, if thereafter necessary, revise the rule.

"§ 623. Agency Regulatory Review and Petitions

''(a) PRELIMINARY SCHEDULE FOR RULES.—Not later than 1 year after the date of enactment of this section, and every 5 years thereafter, each agency shall publish in the Federal Register a preliminary schedule of rules selected for review by the agency under this section, and request public comment thereon, including suggestions for additional rules warranting review. Such preliminary schedule shall propose deadlines for review of each rule listed thereon, and such deadlines shall occur not later than 11 years after the date of publication of the preliminary schedule.

''(b) INTERPRETIVE RULES, GENERAL STATEMENTS OF POLICY, AND GUIDANCE.—(1) For each interpretive rule, general statement of policy, or guidance, which on the date of enactment of this section has the force or effect of a rule under section 621(9), the agency shall, not later than the date of publication of the preliminary schedule in subsection (a)—

''(A) withdraw the rule;

''(B) issue a new interpretive rule, general statement of policy, or guidance;

''(C) publish notice in the Federal Register that the interpretive rule, general statement of policy, of guidance does not have the force or effect of a rule; or

''(D) include the rule on the schedule in subsection (a).

''(2) If such rule is included on the schedule in subsection (a), the rule may remain in force pending its review under this section, if the agency makes a finding of good cause and publishes such finding in the Federal Register with the schedule.

''(c) SCHEDULE.—(1) Not later than 1 year after publication of a preliminary schedule under subsection (a), the agency shall publish a schedule of rules to be reviewed by the agency under this section, taking into account the criteria in subsection (d), and comments from the public.

''(2) The agency shall publish revisions to the schedule as necessary to reflect changes to the schedule required by agency action pursuant to subsection (e) or (j)(4) or required to comply with any conditions of an annual appropriations Act affecting the agency.

''(3) The schedule, including any revisions of the schedule, shall establish a deadline for completion of the review of each rule listed thereon. Each such deadline shall occur not later than 10 years from the date of initial publication of the schedule.

''(d) CRITERIA FOR ESTABLISHING DEADLINES FOR REVIEW.—The schedules in subsections (a) and (c) shall establish priorities for the review of rules listed on the schedule, and the deadlines for review of each rule on the schedule, that take into account—

''(1) the extent to which, for a particular rule the preliminary views of the agency are that—

''(A) the rule is unnecessary, and the agency has discretion under the statute authorizing the rule to repeal the rule;

''(B) the rule would not meet the decisional criteria of section 624, and the agency has discretion under the statute authorizing the rule to repeal the rule; or

''(C) the rule could be revised in a manner allowed by the statute authorizing the rule to meet the decisional criteria under section 624 and to—

''(i) substantially decrease costs;

''(ii) substantially increase benefits; or

''(iii) provide greater flexibility for regulated entities, through mechanisms including those listed in section 622(c)(2)(C)(iii);

''(2) the resources expected to be available to the agency to carry out the reviews under this section; and

''(3) the importance of each rule relative to the other rules being reviewed under this section.

''(e) PETITION FOR RECONSIDERATION OF PRIORITY.—(1) Any interested person may petition the agency to revise the deadline for completion of review of a rule listed on a schedule under subsection (c). The petition shall identify with reasonable specificity the rule to be reviewed and the revised deadline requested. A decision to grant, or final agency action to deny, such petition shall be made with reasonable promptness, but in no event later than 18 months after the petition was received by the agency. If the petition is granted, the final schedule under subsection (c) shall be modified to reflect the revised deadline. The agency shall give notice of each petition submitted under this subsection and shall consider any comments submitted in granting or denying the petition.

''(2) Notwithstanding section 533(*l*)(2), during the time between a decision to grant or deny a petition and the publication of the next preliminary schedule under subsection (a), no further petition under this subsection on the same rule shall be required to be considered by the agency unless—

''(A) such further petition was filed not later than 90 days after public notice under this subsection; or

''(B) such further petition is based on a significant change in fact, circumstance, or provision of law underlying or otherwise related to the rule and occurring since the petition was granted or denied, that warrants the review of the deadline.

''(f) REVIEW OF RULE.—(1) For each rule on the schedule under subsection (c), the agency shall—

''(A) not later than 2 years before the deadline in such schedule, publish in the Federal Register a notice that solicits public comment regarding whether the rule should be extended, modified, or terminated;

''(B) not later than 1 year before the deadline in such schedule, publish in the Federal Register a notice that—

''(i) addresses public comments generated by the notice in subparagraph (A);

''(ii) contains a preliminary analysis provided by agency of whether the rule satisfies the decisional criteria of section 624;

''(iii) contains a preliminary determination as to whether the rule should be extended, modified, or terminated; and

''(iv) solicits public comment on the preliminary determination for the rule; and

''(C) not later than 60 days before the deadline in such schedule, publish in the Federal Register a final notice on the rule that—

''(i) addresses public comments generated by the notice in subparagraph (B);

''(ii) contains a final determination of whether to extend, modify, or terminate the rule;

''(iii) if the agency determines to extend the rule, contains findings necessary to satisfy the decisional criteria of section 624; and

''(iv) if the agency determines to modify the rule, contains a notice of proposed rulemaking under section 553.

''(2) If the agency's final determination is to extend or terminate the rule, that determination shall take effect 60 days after the publication in the Federal Register of the notice in paragraph (1)(c).

''(3) The head of an agency may extend the period for completing review of a rule for up to 2 years after the deadline in the schedule, if the head of the agency—

''(A) makes a finding of good cause for making the extension;

''(B) makes a finding that the extension is in the public interest; and

''(C) publishes such findings in the Federal Register with a notice of the extension.

''(g) DEADLINE FOR FINAL AGENCY ACTION ON MODIFIED RULE.—If an agency makes a determination to modify a rule under subsection (f)(1)(C)(ii), the agency shall complete final agency action with regard to such rule not later than 2 years after the date of publication of the notice in subsection (f)(1)(C) containing such determination. Nothing in this subsection shall limit the discretion of an agency to decide, after having proposed to modify a rule, not to promulgate such modification. Such decision shall constitute final agency action for the purposes of judicial review.

''(h) TERMINATION OF RULES.—(1) Subject to paragraph (2), if the head of an agency has not completed the review of a rule by the deadline established in the schedule published under subsection (c), the head of the agency shall not enforce the rule, and the rule shall terminate by operation of law, as of such deadline.

''(2) If a notice of extension has been published under subsection (f), the head of an agency shall not enforce a rule subject to such notice, and the rule shall terminate by operation of law, as of the earlier of—

''(A) the date that is 2 years after the deadline in the schedule; or

''(B) the date designated in the notice.

''(i) APPROPRIATIONS.—(1) The President's annual budget proposal submitted under section 1105(a) of title 31 for each agency subject to this section shall—

''(A) identify as a separate sum, the amount requested to be appropriated for implementation of this section during the upcoming fiscal year;

''(B) include a copy of the schedule under subsection (c); and

''(C) include a list of rules that may terminate during the year for which the budget proposal is made.

''(2) Amendments to the schedule under subsection (c) may be included in annual appropriations Acts for the relevant agencies. Each agency shall modify its schedule under subsection (c) to reflect such amendments.

''(j) PETITION TO AMEND OR REPEAL A MAJOR RULE.—(1) A petition under section 553(*l*)(1)(A) to amend or repeal a major rule shall be reviewed in accordance with this subsection. The petition shall identify with reasonable specificity the major rule to be reviewed and the amendment or repeal requested.

''(2) The agency shall grant the petition if the petition shows that—

''(A) there is a reasonable likelihood that, considering the future impact of the rule—

''(i) the rule is a major rule under section 621(5); and

''(ii) the head of the agency would not be able to make the findings required by section 624 with respect to the future impact of the rule; and

''(B) a schedule was published by the agency under subsection (c) at the time that the petition was received by the agency, and the rule was not scheduled for review on such schedule.

''(3) The agency shall give notice in the Federal Register on any petition under this subsection and shall consider any comments submitted in granting or denying the petition. Notwithstanding section 553(*l*)(2), during the 5-year period immediately following a decision to grant or deny a petition, no further petition of the same rule, reviewable under this subsection, shall be required to be considered by the agency, unless—

''(A) such further petition was filed not later than 90 days after notice was provided under this paragraph; or

''(B) such further petition is based on a significant change in a fact, circumstance, or

provision of law underlying or otherwise related to the rule and occurring since the petition was granted or denied, that warrants the amendment or repeal of the rule.

''(4) If the agency grants the petition reviewed under this subsection, or the petitioner is the prevailing party upon judicial review of the denial of a petition, the agency shall amend the schedule under subsection (c) to include the rule, and assign a deadline for completion of the review of the rule according to the criteria of subsection (d).

''(5) This subsection shall become effective, for each agency, on the date of publication of the first schedule for that agency under subsection (c).

''(k) PETITION TO REVIEW INTERPRETIVE RULES, GENERAL STATEMENTS OF POLICY, AND GUIDANCE.—(1) A petition under section 553(*l*)(1)(B) to review an interpretive rule, general statement of policy, or guidance on the basis that on the date the petition is filed, the interpretive rule, general statement of policy, or guidance has the force and effect of a rule under section 621(9) shall be reviewed in accordance with this subsection. The petition shall identify with reasonable specificity why the interpretive rule, general statement of policy, or guidance has the force and effect of a rule under section 621(9).

''(2) The agency shall grant the petition if the petition shows there is a reasonable likelihood that—

''(A) the interpretive rule, general statement of policy, or guidance has the force and effect of a rule under section 621(9) on the date the petition is filed; and

''(B) if a schedule has been published by the agency under subsection (c), at the time that the petition was received by the agency, the interpretive rule, general statement of policy, or guidance is not on such schedule.

''(3) For each interpretive rule, general statement of policy, or guidance for which a petition is granted under this subsection, the agency shall—

''(A) immediately withdraw the interpretive rule, general statement of policy, or guidance;

''(B) publish notice in the Federal Register that the interpretive rule, general statement of policy, or guidance does not have the force or effect of a rule; or

''(C) add the interpretive rule, general statement of policy, or guidance to the schedule under subsection (c), and assign a deadline for completion of the review of the rule according to the criteria in subsection (d).

''(4) If the agency adds the interpretive rule, general statement of policy, or guidance to the final schedule in subsection (c), it may continue to enforce the interpretive rule, general statement of policy, or guidance, if the agency makes a finding of good cause and publishes such finding in the Federal Register.

''(5) This subsection shall take effect, for each agency, on the date of publication by the agency of the first schedule for review under subsection (c).

''(*l*) PETITION FOR REVIEW OF A MAJOR RISK ASSESSMENT.—(1) Any interested person may petition an agency to conduct a scientific review of a risk assessment conducted or adopted by the agency.

''(2) The agency shall utilize external peer review, as appropriate, to evaluate the claims and analyses in the petition, and shall consider such review in making its determination of whether to grant the petition.

''(3) The agency shall grant the petition if the petition shows that there is a reasonable likelihood that—

''(A)(i) the risk assessment that is the subject of the petition was carried out in a manner substantially inconsistent with the principles in section 633; or

''(ii) the risk assessment that is the subject of the petition does not take into account material significant new scientific data and scientific understanding;

''(B) the risk assessment that is the subject of the petition contains different results than if it had been properly conducted pursuant to subchapter III; and

''(C) a revised risk assessment will provide the basis for reevaluating an agency determination of risk that would be likely to have an effect on the United States economy equivalent to that of major rule.

''(4) A decision to grant, or final action to deny, a petition under this subsection shall be made not later than 180 days after the petition is submitted.

''(5) If the agency grants the petition, it shall complete its review of the risk assessment not later than 1 year after its decision to grant the petition. If the agency revises the risk assessment, in response to its review, it shall subject the revised risk assessment to peer review under section 633(i) prior to its publication.

''(m) FINAL AGENCY ACTION.—(1) A failure to promulgate a modified rule, or to make other decisions required by subsection (g), by the date established under such subsection, shall constitute final agency action.

''(2) An agency's determination to extend or terminate a rule under this section shall be considered a final agency action.

''(3) An agency's action with respect to a petition filed under subsection (e) shall be overturned by the court on review only upon a determination by the court that such action was arbitrary and capricious or an abuse of discretion under section 706(a)(2)(A).

''(4) A decision to grant or deny a petition under subsection (l) shall be final agency action.

''§ 624. Decisional criteria

''(a) CONSTRUCTION WITH OTHER LAWS.—The requirements of this section shall supplement, and not supersede, any other decisional criteria otherwise provided by law.

''(b) REQUIREMENTS.—Except as provided in subsection (c), no final major rule subject to this subchapter shall be promulgated unless the agency head publishes in the Federal Register a finding that—

''(1) the benefits from the rule justify the costs of the rule;

''(2) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii); and

''(3)(A) the rule adopts the least cost alternative of the reasonable alternatives that achieves the objectives of the statute; or

''(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest and the agency head provides an explanation of those considerations, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or benefits; and

''(4) if a risk assessment is required by section 632—

''(A) the rule is likely to significantly reduce the human health, safety, and environmental risks to be addressed; or

''(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, preclude making the finding under subparagraph (A), promulgating the final rule is nevertheless justified for reasons stated in writing accompanying the rule and consistent with subchapter III.

''(c) ALTERNATIVE REQUIREMENTS.—If, applying the statutory requirements upon which the rule is based, a rule cannot satisfy the criteria of subsection (b), the agency head may promulgate the rule if the agency head finds that—

''(1) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii);

''(2)(A) the rule adopts the least cost alternative of the reasonable alternatives that achieves the objectives of the statute; or

''(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest, and the agency head provides an explanation of those consideration, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or benefits; and

''(3) if a risk assessment is required by section 632—

''(A) the rule is likely to significantly reduce the human health, safety, and environmental risks to be addressed;

''(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, preclude making the finding under subparagraph (A), promulgating the final rule is nevertheless justified for reasons stated in writing accompanying the rule and consistent with subchapter III.

''(d) PUBLICATION OF REASONS FOR NONCOMPLIANCE.—If an agency promulgates a rule to which subsection (c) applies, the agency head shall prepare a written explanation of why the agency was required to promulgate a rule that does not satisfy the criteria of subsection (b) and shall transmit the explanation with the final cost-benefit analysis to Congress when the final rule is promulgated.

''§ 625. Jurisdiction and judicial review

(a) REVIEW.—Compliance or noncompliance by an agency with the provisions of this subchapter and subchapter III shall be subject to judicial review only in accordance with this section.

(b) JURISDICTION.—(1) Subject to paragraph (2), each court with jurisdiction under a statute to review final agency action to which this title applies has jurisdiction to review any claims of noncompliance with this subchapter and subchapter III.

(2) No claims of noncompliance with this subchapter or subchapter III shall be reviewed separate or apart from judicial review of the final agency action to which they relate.

(c) RECORD.—Any analysis or review required under this subchapter or subchapter III shall constitute part of the rulemaking record of the final agency action to which it pertains for purposes of judicial review.

(d) STANDARDS FOR REVIEW.—In any proceeding involving judicial review under section 706 or under the statute granting rulemaking authority, failure to comply with this subchapter or subchapter III may be considered by the court solely for the purpose of determining whether the final agency action is arbitrary and capricious or an abuse of discretion (or unsupported by substantial evidence where that standard is otherwise provided by law).

''§ 626. Deadlines for rulemaking

''(a) STATUTORY.—All deadlines in statutes that require agencies to propose or promulgate any rule subject to section 622 or subchapter III during the 5-year period beginning on the effective date of this section shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 2 years after the date of the applicable deadline.

''(b) COURT-ORDERED.—All deadlines imposed by any court of the United States that would require an agency to propose or promulgate a rule subject to section 622 or subchapter III during the 5-year period beginning on the effective date of this section shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 2 years after the date of the applicable deadline.

''(c) OBLIGATION TO REGULATE.—In any case in which the failure to promulgate a rule by a deadline occurring during the 5-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

''(2) the date occurring 2 years after the date of the applicable deadline.

''§ 627. Special rule

''Notwithstanding any other provision of the Comprehensive Regulatory Reform Act of 1995, or the amendments made by such Act, for purposes of this subchapter and subchapter IV, the head of each appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act), the National Credit Union Administration, the Federal Housing Finance Board, the Office of Federal Housing Enterprise Oversight, and the Farm Credit Administration, shall have authority with respect to such agency that otherwise would be provided under such subchapters to the Director, a designee of the President, Vice President, or any officer designated or delegated with authority under such subchapters.

''§ 628. Requirements for major environmental management activities

''(a) DEFINITION.—For purposes of this section, the term 'major environmental management activity' means—

''(1) a corrective action requirement under the Solid Waste Disposal Act;

''(2) a response action or damage assessment under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

''(3) the treatment, storage, or disposal of radioactive or mixed waste in connection with site restoration activity; and

''(4) Federal guidelines for the conduct of such activity, including site-specific guidelines,

the expected costs, expenses, and damages of which are likely to exceed, in the aggregate; $10,000,000.

''(b) APPLICABILITY.—A major environmental management activity is subject to this section unless construction or other remediation activity has commenced on a significant portion of the activity, and—

''(1) it is more cost-effective to complete the work than to apply the provisions of this section; or

''(2) the application of the provisions of this section, including any delays caused thereby, will result in a significant risk to human health or the environment.

''(c) REQUIREMENT TO PREPARE RISK ASSESSMENT.—(1) For each major environmental management activity or significant unit thereof that is proposed by the agency after the date of enactment of this subchapter, is pending on the date of enactment of this subchapter, or is subject to a granted petition for review pursuant to section 623, the head of an agency shall prepare—

''(A) a risk assessment in accordance with subchapter III; and

''(B) a cost-benefit analysis equivalent to that which would be required under this subchapter, if such subchapter were applicable.

''(2) In conducting a risk assessment or cost-benefit analysis under this section, the head of the agency shall incorporate the reasonably anticipated probable future use of the land and its surroundings (and any associated media and resources of either) affected by the environmental management activity.

''(3) For actions pending on the date of enactment of this section or proposed during the year following the date of enactment of this section, in lieu of preparing a risk assessment in accordance with subchapter III or cost-benefit analysis under this subchapter, an agency may use other appropriately developed analyses that allow it to make the judgments required under subsection (d).

''(d) REQUIREMENT.—The requirements of this subsection shall supplement, and not supercede, any other requirement provided by any law. A major environmental management activity under this section shall meet the decisional criteria under section 624 as if it is a major rule under such section

''SUBCHAPTER III—RISK ASSESSMENTS

''§ 631. Definitions

''For purposes of this subchapter—

''(1) except as otherwise provided, the definitions under section 551 shall apply to this subchapter;

''(2) the term 'exposure assessment' means the scientific determination of the intensity, frequency and duration of actual or potential exposures to the hazard in question;

''(3) the term 'hazard assessment' means the scientific determination of whether a hazard can cause an increased incidence of one or more significant adverse effects, and a scientific evaluation of the relationship between the degree of exposure to a perceived cause of an adverse effect and the incidence and severity of the effect;

''(4) the term 'major rule' has the meaning given such term in section 621(5);

''(5) the term 'risk assessment' means the systematic process of organizing and analyzing scientific knowledge and information on potential hazards, including as appropriate for the specific risk involved, hazard assessment, exposure assessment, and risk characterization;

''(6) the term 'risk characterization' means the integration and organization of hazard and exposure assessment to estimate the potential for specific harm to an exposed individual population or natural resource including, to the extent feasible, a characterization of the distribution of risk as well as an analysis of uncertainties, variabilities, conflicting information, and inferences and assumptions in the assessment;

''(7) the term 'screening analysis' means an analysis using simple conservative postulates to arrive at an estimate of upper and lower bounds as appropriate, that permits the manager to eliminate risks from further consideration and analysis, or to help establish priorities for agency action; and

''(8) the term 'substitution risk' means an increased risk to human health, safety, or the environment reasonably likely to result from a regulatory option.

''§ 632. Applicability

''(a) IN GENERAL.—(1) Except as provided in subsection (c), for each proposed and final major rule, a primary purpose of which is to protect human health, safety, or the environment, or a consequence of which is a substantial substitution risk, that is proposed by an agency after the date of enactment of this subchapter, or is pending on the date of enactment of this subchapter, the head of each agency shall prepare a risk assessment in accordance with this subchapter.

''(2) An agency shall not, as a condition for the issuance or modification of a permit, conduct, or require any person to conduct, a risk assessment not otherwise explicitly required by law or regulation.

''(b) APPLICATION OF PRINCIPLES.—Except as provided in subsection (c), the head of each agency shall apply the principles in this subchapter to any risk assessment carried out by, or on behalf of, or prepared by others and adopted by, the agency in connection with human health, safety, and environmental risks.

''(c) EXCEPTIONS.—(1) This subchapter shall not apply to risk assessments performed with respect to—

''(A) a situation for which the agency finds good cause that conducting a risk assessment is impracticable due to an emergency or health and safety threat that is likely to result in significant harm to the public or natural resources;

''(B) a rule or agency action that authorizes the introduction into commerce, or initiation of manufacture, of a substance, mixture, or product, or recognizes the marketable status of a product;

''(C) a human health, safety, or environmental inspection, an action enforcing a rule or permit, or an individual facility permitting action, except risk assessments conducted in connection with permits issued under subtitle C of title II of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.);

''(D) a screening analysis clearly identified as such; or

''(E) product registrations, reregistrations, tolerance settings, and reviews of premanufacture notices under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) and the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

''(2) An analysis shall not be treated as a screening analysis for the purposes of paragraph (1)(D) if the result of the analysis is used—

''(A) as the basis for imposing a restriction on a previously authorized substance, product, or activity after its initial introduction into manufacture or commerce; or

''(B) to characterize a finding of significant risk from a substance or activity in any agency document or other communication made available to the public, the media, or Congress.

''(3) This subchapter shall not apply to any food, drug, or other product label or labeling, or to any risk characterization appearing on any such label.

''§ 633. Principles for risk assessments

''(a) IN GENERAL.—(1) The head of each agency shall design and conduct risk assessments in a manner that promotes rational and informed risk management decisions and informed public input into the process of making agency decisions.

''(2) The head of each agency shall establish and maintain a distinction between risk assessment and risk management.

''(3) An agency may take into account priorities for managing risks, including the types of information that would be important in evaluating a full range of alternatives, in developing priorities for risk assessment activities.

''(4) In conducting a risk assessment, the head of each agency shall employ the level of detail and rigor appropriate and practicable for reasoned decisionmaking in the matter involved, proportionate to the significance and complexity of the potential agency action and the need for expedition.

''(5) An agency shall not be required to repeat discussions or explanations in each risk

assessment required under this subchapter if there is an unambiguous reference to a relevant discussion or explanation in another reasonably available agency document that was prepared in accordance with this section.

''(b) LEVEL OF DETAIL.—(1) Each agency shall develop and use an iterative process for risk assessment, starting with relatively inexpensive screening analyses and progressing to more rigorous analyses, as circumstances or results warrant.

''(2) In determining whether or not to proceed to a more detailed analysis, the head of the agency shall take into consideration whether or not use of additional data or the analysis thereof would significantly change the estimate of risk.

''(c) DATA QUALITY.—(1) The head of each agency shall base each risk assessment only on the best reasonably available scientific data and scientific understanding, including scientific information that finds or fails to find a correlation between a potential hazard and an adverse effect, and data regarding exposure and other relevant physical conditions that are reasonably expected to be encountered.

''(2) The agency shall select data for use in a risk assessment based on a reasoned analysis of the quality and relevance of the data, and shall describe such analysis.

''(3) In making its selection of data, the agency shall consider whether the data were developed in accordance with good laboratory practice or other appropriate protocols to ensure data quality, such as the standards for the development of test data promulgated pursuant to section 4 of the Toxic Substances Control Act (15 U.S.C. 2603), and the standards for data requirements promulgated pursuant to section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a), or other form of independent valuation.

''(4) Subject to paragraph (3), relevant scientific data submitted by interested parties shall be reviewed and considered by the agency in the analysis under paragraph (2).

''(5) When conflicts among scientific data appear to exist, the risk assessment shall include a discussion of all relevant information including the likelihood of alternative interpretations of the data and emphasizing—

''(A) postulates that represent the most reasonable inferences from the supporting scientific data; and

''(B) when a risk assessment involves an extrapolation from toxicological studies, data with the greatest scientific basis of support for the resulting harm to affected individuals, populations, or resources.

''(6) The head of an agency shall not automatically incorporate or adopt any recommendation or classification made by any foreign government, the United Nations, any international governmental body or standards-making organization, concerning the health effects value of a substance. Nothing in this paragraph shall be construed to affect the implementation or application of any treaty or international trade agreement to which the United States is a party.

''(d) USE OF POSTULATES.—(1) To the maximum extent practicable, each agency shall use postulates, including default assumptions, inferences, models or safety factors, only when relevant scientific data and scientific understanding, including site-specific data, are lacking. The agency shall decrease the use of postulates to the extent higher quality scientific data and understanding become available.

''(2) When a risk assessment involves choice of a postulate, the head of the agency shall—

''(A) identify the postulate and its scientific or policy basis, including the extent to which the postulate has been validated, or conflicts with empirical data;

''(B) explain the basis for any choices among postulates; and

''(C) describe reasonable alternative postulates that were not selected by the agency for use in the risk assessment, and the sensitivity of the conclusions of the risk assessment to the alternatives, and the rationale for not using such alternatives.

''(3) An agency shall not inappropriately combine or compound multiple postulates.

''(4) The agency shall develop a procedure and publish guidelines for choosing default postulates and for deciding when and how in a specific risk assessment to adopt alternative postulates or to use available scientific information in place of a default postulate.

''(e) RISK CHARACTERIZATION.—In each risk assessment, the agency shall include in the risk characterization, as appropriate, each of the following:

''(1) A description of the hazard of concern.

''(2) A description of the populations or natural resources that are the subject of the risk assessment.

''(3) An explanation of the exposure scenarios used in the risk assessment, including an estimate of the corresponding population at risk and the likelihood of such exposure scenarios.

''(4) A description of the nature and severity of the harm that could plausibly occur.

''(5) A description of the major uncertainties in each component of the risk assessment and their influence on the results of the assessment.

''(f) PRESENTATION OF RISK ASSESSMENT CONCLUSIONS.—(1) To the extent feasible and scientifically appropriate, the head of an agency shall—

''(A) express the overall estimate of risk as a range or probability distribution that reflects variabilities, uncertainties and data gaps in the analysis;

''(B) provide the range and distribution of risks and the corresponding exposure scenarios, identifying the reasonably expected risk to the general population and, where appropriate, to more highly exposed subpopulations; and

''(C) where quantitative estimates of the range and distribution of risk estimates are not available, describe the qualitative factors influencing the range of possible risks.

''(2) When scientific data and understanding that permits relevant comparisons of risk are reasonably available, the agency shall use such information to place the nature and magnitude of risks to human health, safety, and the environment being analyzed in context.

''(3) When scientifically appropriate information on significant substitution risks to human health, safety, or the environment is reasonably available to the agency, or is contained in information provided to the agency by a commentator, the agency shall describe such risks in the risk assessments.

''(g) PEER REVIEW.—(1) Each agency shall provide for peer review in accordance with this section of any risk assessment subject to the requirements of this subchapter that forms that basis of any major rule or a major environmental management activity.

''(2) Each agency shall develop a systematic program for balanced, independent, and external peer review that—

''(A) shall provide for the creation or utilization of peer review panels, expert bodies, or other devices that are balanced and comprised of participants selected on the basis of their expertise relevant to the sciences involved in regulatory decisions and who are independent of the agency program that developed the risk assessment being reviewed;

''(B) shall not exclude any person with substantial and relevant expertise as a participant on the basis that such person has a potential interest in the outcome, if such interest is fully disclosed to the agency, unless the result of the review would have a direct and predictable effect on a substantial financial interest of such person;

''(C) shall provide for a timely completed peer review, meeting agency deadlines, that contains a balanced presentation of all considerations, including minority reports and agency response to all significant peer review comments; and

''(D) shall provide adequate protections for confidential business information and trade secrets, including requiring panel members to enter into confidentiality agreements.

''(3) Each peer review shall include a report to the Federal agency concerned detailing the scientific and technical merit of data and the methods used for the risk assessment or cost-benefit analysis, and shall identify significant peer review comments. Each agency shall provide a written response to all significant peer review comments. All peer review comments, conclusions, composition of the panels, and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.

''(4)(A) The Director of the Office of Science and Technology Policy shall develop a systematic program to oversee the use and quality of peer review of risk assessments.

''(B) The Director or the designee of the President may order an agency to conduct peer review for any risk assessment that is likely to have a significant impact on public policy decisions, or that would establish an important precedent.

''(5) The proceedings of peer review panels under this section shall not be subject to the Federal Advisory Committee Act.

''(h) PUBLIC PARTICIPATION.—The head of each agency shall provide appropriate opportunities for public participation and comment on risk assessments.

''§ 634. Rule of construction

''Nothing in this subchapter shall be construed to—

''(1) preclude the consideration of any data or the calculation of any estimate to more fully describe or analyze risk, scientific uncertainty, or variability; or

''(2) require the disclosure of any trade secret or other confidential information.

''§ 635. Comprehensive risk reduction

''(a) SETTING PRIORITIES.—The head of each agency with programs to protect human health, safety, or the environment shall set priorities for the use of resources available to address those risks to human health, safety, and the environment, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

''(b) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each agency in subsection (a) shall incorporate the priorities identified under subsection (a) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner using the priorities set under subsection (a), the basis for that determination, and explicitly identify how the agency's requested budget and regulatory agenda reflect those priorities.

''(c) REPORTS BY THE NATIONAL ACADEMY OF SCIENCES.—(1) Not later than 6 months after

the date of enactment of this section, the Director of the Office of Science and Technology Policy shall enter into an arrangement with the National Academy of Sciences to investigate and report on comparative risk analysis. The arrangement shall provide, to the extent deemed appropriate and feasible by the Academy, for—

''(A) 1 or more reports evaluating methods of comparative risk analysis that would be appropriate for agency programs related to human health, safety, and the environment to use in setting priorities for activities; and

''(B) a report providing a comprehensive and comparative analysis of the risks to human health, safety, and the environment that are addressed by agency programs under subsection (a), along with companion activities to disseminate the conclusions of the report to the public.

''(2) The report or reports prepared under paragraph (1)(A) shall be completed not later than 3 years after the date of enactment of this section. The report under paragraph (1)(B) shall be completed not later than 4 years after the date of enactment of this section, and shall draw, as appropriate, upon the insights and conclusions of the report or reports made under paragraph (1)(A). The companion activities under paragraph (1)(B) shall be completed not later than 5 years after the date of enactment of this section.

''(3)(A) The head of an agency with programs to protect human health, safety, and the environment shall incorporate the recommendations of reports under paragraph (1) in revising any priorities under subsection (a).

''(B) The head of the agency shall submit a report to the appropriate Congressional committees of jurisdiction responding to the recommendations from the National Academy of Sciences and describing plans for utilizing the results of comparative risk analysis in agency budget, strategic planning, regulatory agenda, enforcement, and research and development activities.

''(4) Following the submission of the report in paragraph (2), for the next 5 years, the head of the agency shall submit, with the budget request submitted to Congress under section 1105(a) of title 31, a description of how the requested budget of the agency and the strategic planning activities of the agency reflect priorities determined using the recommendations of reports issued under subsection (a). The head of the agency shall include in such description—

''(A) recommendations on the modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

''(B) recommendation on the modification or elimination of statutory or judicially mandated deadlines,

that would assist the head of the agency to set priorities in activities to address the risks to human health, safety, or the environment that incorporate the priorities developed using the recommendations of the reports under subsection (a), resulting in more cost-effective programs to address risk.

''(5) For each budget request submitted in accordance with paragraph (4), the Director shall submit an analysis of ways in which resources could be reallocated among Federal agencies to achieve the greatest overall net reduction in risk.

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

''§ 641. Procedures

''(a) IN GENERAL.—The Director or a designee of the President shall—

''(1) establish and, as appropriate, revise procedures for agency compliance with this chapter; and

''(2) monitor, review, and ensure agency implementation of such procedures.

''(b) PUBLIC COMMENT.—Procedures established pursuant to subsection (a) shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

''(c) TIME FOR REVIEW.—(1) If procedures established pursuant to subsection (a) include review of any initial or final analyses of a rule required under chapter 6, the time for any such review of any initial analysis shall not exceed 90 days following the receipt of the analysis by the Director, or a designee of the President.

''(2) The time for review of any final analysis required under chapter 6 shall not exceed 90 days following the receipt of the analysis by the Director, a designee of the President.

''(3)(A) The times for each such review may be extended for good cause by the President or by an officer to whom the President has delegated his authority pursuant to section 642 for an additional 30 days. At the request of the head of an agency, the President or such an officer may grant an additional extension of 30 days.

''(B) Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

''§ 642. Delegation of authority

''(a) IN GENERAL.—The President may delegate the authority granted by this subchapter to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate.

''(b) NOTICE.—Notice of any delegation, or any revocation or modification thereof shall be published in the Federal Register.

''§ 643. Judicial review

''The exercise of the authority granted under this subchapter by the Director, the President, or by an officer to whom such authority has been delegated under section 642 and agency compliance or noncompliance with the procedure under section 641 shall not be subject to judicial review.

''§ 644. Regulatory agenda

''The head of each agency shall provide, as part of the semiannual regulatory agenda published under section 602—

''(1) a list of risk assessments under preparation or planned by the agency;

''(2) a brief summary of relevant issues addressed or to be addressed by each listed risk assessment;

''(3) an approximate schedule for completing each listed risk assessment;

''(4) an identification of potential rules, guidance, or other agency actions supported or affected by each listed risk assessment; and

''(5) the name, address, and telephone number of an agency official knowledgeable about each listed risk assessment.''.

(b) REGULATORY FLEXIBILITY ANALYSIS.—

(1) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

''(c)(1) No final rule for which a final regulatory flexibility analysis is required under this section shall be promulgated unless the agency finds that the final rule minimizes significant economic impact on small entities to the maximum extent possible, consistent with the purposes of this subchapter, the objectives of the rule, and the requirements of applicable statutes.

''(2) If an agency determines that a statute requires a rule to be promulgated that does not satisfy the criterion of paragraph (1), the agency shall—

''(A) include a written explanation of such determination in the final regulatory flexibility analysis; and

''(B) transmit the final regulatory flexibility analysis to Congress when the final rule is promulgated.''.

(2) JUDICIAL REVIEW.—Section 611 of title 5, United States Code, is amended to read as follows:

''§ 611. Judicial review

''(a)(1) For any rule described in section 603(a), and with respect to which the agency—

''(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities;

''(B) prepared a final regulatory flexibility analysis pursuant to section 604; or

''(C) did not prepare an initial regulatory flexibility analysis pursuant to section 603 or a final regulatory flexibility analysis pursuant to section 604 except as permitted by sections 605 and 608,

an affected small entity may petition for the judicial review of such certification, analysis, or failure to prepare such analysis, in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 or under any other provision of law shall have jurisdiction over such petition.

''(2)(A) Notwithstanding any other provision of law, an affected small entity shall have 1 year after the effective date of the final rule to challenge the certification, analysis or failure to prepare an analysis required by this subchapter with respect to any such rule.

''(B) If an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection may be filed not later than 1 year after the date the analysis is made available to the public.

''(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be subject to the provisions of, or otherwise required to comply with, the final rule.

''(4) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

''(5)(A) Notwithstanding section 605, if the court determines, on the basis of the court's review of the rulemaking record, that there is substantial evidence that the rule would have a significant economic impact on a substantial number of small entities, the court shall order the agency to prepare a final regulatory flexibility analysis that satisfies the requirements of section 604.

''(B) If the agency prepared a final regulatory flexibility analysis, the court shall order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the court's review of the rulemaking record, that the final regulatory flexibility analysis does not satisfy the requirements of section 604.

''(6) The court shall stay the rule and grant such other relief as the court determines to be appropriate if, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5), the agency fails, as appropriate—

''(A) to prepare the analysis required by section 604; or

''(B) to take corrective action consistent with section 604.

''(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

''(c) Except as otherwise required by the provisions of this subchapter, the court shall apply the same standards of judicial review that govern the review of agency findings under the statute granting the agency authority to conduct the rulemaking.''.

(c) REVISION OF CERTAIN PROVISIONS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT RELATING TO TESTING.—In applying section 409(c)(3)(A), 512(d)(1), or 721(b)(5)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(3)(A), 360b(d)(1), 379e(b)(5)(B)), the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency shall not prohibit or refuse to approve a substance or product on the basis of safety, where the substance or product presents a negligible or insignificant foreseeable risk to human health resulting from its intended use.

(d) TOXIC RELEASE INVENTORY.—

(1) Within 180 days after the date of the enactment of this subsection, the Administrator of the Environmental Protection Agency shall carry out a review of each characterization or listing of a substance added since November 8, 1994 to the Toxic Release Inventory under section 313(c) of the Emergency Planning and Community Right to Know Act of 1986.

(2) In this review the Administrator shall determine with the respect to each such characterization or listing whether removal of the substance from the Toxic Release Inventory presents a foreseeable significant risk to human health or the environment.

(3) The Administrator shall remove from the Toxic Release Inventory any substance whose removal is justified by the determination under paragraph (2).

(4) (A) Within 90 days after the date of the enactment of this subsection the Administrator shall publish in the Federal Register a draft review and the Administrator's preliminary plans to use the authority under paragraph (3), and afford interested persons an opportunity to comment.

(B) Promptly upon completion of the review, the Administrator shall provide Congress with a written report summarizing the review and the reasons for action or inaction on each characterization or listing subject to this, subsection.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—Part I of title 5, United States Code, is amended by striking the chapter heading and table of sections for chapter 6 and inserting the following:

''CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

''SUBCHAPTER I—REGULATORY ANALYSIS

''Sec.
''601. Definitions.
''602. Regulatory agenda.
''603. Initial regulatory flexibility analysis.
''604. Final regulatory flexibility analysis.
''605. Avoidance of duplicative or unnecessary analyses.
''606. Effect on other law.
''607. Preparation of analysis.
''608. Procedure for waiver or delay of completion.
''609. Procedures for gathering comments.
''610. Periodic review of rules.
''611. Judicial review.
''612. Reports and intervention rights.

''SUBCHAPTER II—ANALYSIS OF AGENCY RULES

''621. Definitions.
''622. Rulemaking cost-benefit analysis.
''623. Agency regulatory review and petitions.
''624. Decisional criteria.
''625. Jurisdiction and judicial review.
''626. Deadlines for rulemaking.
''627. Special rule.
''628. Requirements for major environmental management activities.

''SUBCHAPTER III—RISK ASSESSMENTS

''631. Definitions.
''632. Applicability.
''633. Principles for risk assessments.
''634. Rule of construction.
''635. Comprehensive risk reduction.

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

''641. Procedures.
''642. Delegation of authority.
''643. Judicial review.
''644. Regulatory agenda.''.

(2) SUBCHAPTER HEADING.—Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

''SUBCHAPTER I—REGULATORY ANALYSIS''.

SEC. 5. JUDICIAL REVIEW.

(a) IN GENERAL.—Chapter 7 of title 5, United States Code, is amended—

(1) by striking section 706; and

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

''§ 706. Scope of review

''(a) To the extent necessary to reach a decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

''(1) compel agency action unlawfully withheld or unreasonably delayed; and

''(2) hold unlawful and set aside agency action, findings and conclusions found to be—

''(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

''(B) contrary to constitutional right, power, privilege, or immunity;

''(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

''(D) without observance of procedure required by law;

''(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 or otherwise reviewed on the record of an agency hearing provided by statute;

''(F) without substantial support in the rulemaking file, viewed as a whole, for the asserted or necessary factual basis, in the case of a rule adopted in a proceeding subject to section 553; or

''(G) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

''(b) In making the determinations set forth in subsection (a), the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

''§ 707. Consent decrees

''In interpreting any consent decree in effect on or after the date of enactment of this section that imposes on an agency an obligation to initiate, continue, or complete rulemaking proceedings, the court shall not enforce the decree in a way that divests the agency of discretion clearly granted to the agency by statute to respond to changing circumstances, make policy or managerial choices, or protect the rights of third parties.

''§ 708. Affirmative defense

''Notwithstanding any other provision of law, it shall be an affirmative defense in any enforcement action brought by an agency that the regulated person or entity reasonably relied on and is complying with a rule, regulation, adjudication, directive, or order of such agency or any other agency that is incompatible, contradictory, or otherwise cannot be reconciled with the agency rule, regulation, adjudication, directive, or order being enforced.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 7 of title 5, United States Code, is amended by striking the item relating to section 706 and inserting the following new items:

''706. Scope of review.
''707. Consent decrees.
''708. Affirmative defense.''

SEC. 6. CONGRESSIONAL REVIEW.

(a) FINDING.—The Congress finds that effective steps for improving the efficiency and proper management of Government operations will be promoted if a moratorium on the implementation of certain significant final rules is imposed in order to provide Congress an opportunity for review.

(b) IN GENERAL.—Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

''CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

''801. Congressional review.
''802. Congressional disapproval procedure.
''803. Special rule on statutory, regulatory, and judicial deadlines.
''804. Definitions.
''805. Judicial review.
''806. Applicability; severability.
''807. Exemption for monetary policy.

''§ 801. Congressional review

''(a)(1)(A) Before a rule can take effect as a final rule, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

''(i) a copy of the rule;

''(ii) a concise general statement relating to the rule; and

''(iii) the proposed effective date of the rule.

''(B) The Federal agency promulgating the rule shall make available to each House of Congress and the Comptroller General, upon request—

''(i) a complete copy of the cost-benefit analysis of the rule, if any;

''(ii) the agency's actions relevant to sections 603, 604, 605, 607, and 609;

''(iii) the agency's actions relevant to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995; and

''(iv) any other relevant information or requirements under any other Act and any relevant Executive orders, such as Executive Order No. 12866.

''(C) Upon receipt, each House shall provide copies to the Chairman and Ranking Member of each committee with jurisdiction.

''(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction to each House of the Congress by the end of 12 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B).

''(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

''(3) A major rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of—

''(A) the later of the date occurring 60 days after the date on which—

''(i) the Congress receives the report submitted under paragraph (1); or

''(ii) the rule is published in the Federal Register;

''(B) if the Congress passes a joint resolution of disapproval described under section 802 relating to the rule, and the President signs a veto of such resolution, the earlier date—

''(i) on which either House of Congress votes and fails to override the veto of the President; or

''(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

''(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 802 is enacted).

''(4) Except for a major rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

''(5) Notwithstanding paragraph (3), the effective date of a rule shall not be delayed by operation of this chapter beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 802.

''(b) A rule shall not take effect (or continue) as a final rule, if the Congress passes a joint resolution of disapproval described under section 802.

''(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this chapter may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

''(2) Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

''(A) necessary because of an imminent threat to health or safety or other emergency;

''(B) necessary for the enforcement of criminal laws; or

''(C) necessary for national security.

''(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802 or the effect of a joint resolution of disapproval under this section.

''(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, section 802 shall apply to such rule in the succeeding Congress.

''(2)(A) In applying section 802 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

''(i) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the 15th session day after the succeeding Congress first convenes; and

''(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

''(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a final rule can take effect.

''(3) A rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law (including other subsections of this section).

''(e)(1) Section 802 shall apply in accordance with this subsection to any major rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on November 20, 1994, through the date on which the Comprehensive Regulatory Reform Act of 1995 takes effect.

''(2) In applying section 802 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

''(A) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date of the enactment of the Comprehensive Regulatory Reform Act of 1995; and

''(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

''(3) The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 802.

''(f) Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect.

''(g) If the Congress does not enact a joint resolution of disapproval under section 802, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

''§ 802. Congressional disapproval procedure

''(a) For purposes of this section, the term 'joint resolution' means only a joint resolution introduced during the period beginning on the date on which the report referred to in section 801(a) is received by Congress and ending 60 days thereafter, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the ____ relating to ____, and such rule shall have no force or effect.'. (The blank spaces being appropriately filled in.)

''(b)(1) A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution may not be reported before the eighth day after its submission or publication date.

''(2) For purposes of this subsection the term 'submission or publication date' means the later of the date on which—

''(A) the Congress receives the report submitted under section 801(a)(1); or

''(B) the rule is published in the Federal Register.

''(c) If the committee to which is referred a resolution described in subsection (a) has not reported such resolution (or an identical resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such resolution in the Senate upon a petition supported in writing by 30 Members of the Senate and in the House upon a petition supported in writing by one-fourth of the Members duly sworn and chosen or by motion of the Speaker supported by the Minority Leader, and such resolution shall be placed on the appropriate calendar of the House involved.

''(d)(1) When the committee to which a resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of, a resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

''(2) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order.

''(3) Immediately following the conclusion of the debate on a resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

''(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

''(e) If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

''(1) The resolution of the other House shall not be referred to a committee.

''(2) With respect to a resolution described in subsection (a) of the House receiving the resolution—

''(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

''(B) the vote on final passage shall be on the resolution of the other House.

''(f) 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 a resolution 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.

''§ 803. Special rule on statutory, regulatory, and judicial deadlines

''(a) In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of the enactment of a joint resolution under section 802, that deadline is extended until the date 1 year after the date of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 801(a).

''(b) The term 'deadline' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

''§ 804. Definitions

''(a) For purposes of this chapter—

''(1) the term 'Federal agency' means any agency as that term is defined in section 551(1) (relating to administrative procedure);

''(2) the term 'major rule' has the same meaning given such term in section 621(5); and

''(3) the term 'final rule' means any final rule or interim final rule.

''(b) As used in subsection (a)(3), the term 'rule' has the meaning given such term in section 551, except that such term does not include any rule of particular applicability including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing or any rule of agency organization, personnel, procedure, practice or any routine matter.

''§ 805. Judicial review

''No determination, finding, action, or omission under this chapter shall be subject to judicial review.

''§ 806. Applicability; severability

''(a) This chapter shall apply notwithstanding any other provision of law.

''(b) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby.

''§ 807. Exemption for monetary policy

''Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.''.

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect on the date of enactment of this Act and shall apply to any rule that takes effect as a final rule on or after such effective date.

(d) TECHNICAL AMENDMENT.—The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

''8. Congressional Review of Agency Rulemaking ..... 801''.

SEC. 7. REGULATORY ACCOUNTING.

(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) MAJOR RULE.—The term ''major rule'' has the same meaning as defined in section 621(5)(A)(i) of title 5, United States Code. The term shall not include—

(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

(B) regulations issued with respect to a military or foreign affairs function of the United States; or

(C) regulations related to agency organization, management, or personnel.

(2) AGENCY.—The term ''agency'' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

(A) the General Accounting Office;

(B) the Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

(b) ACCOUNTING STATEMENT.—

(1) IN GENERAL.—(A) The President shall be responsible for implementing and administering the requirements of this section.

(B) Not later than June 1, 1997, and each June 1 thereafter, the President shall prepare and submit to Congress an accounting statement that estimates the annual costs of major rules and corresponding benefits in accordance with this subsection.

(2) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement shall cover, at a minimum, the 5 fiscal years beginning on October 1 of the year in which the report is submitted and may cover any fiscal year preceding such fiscal years for purpose of revising previous estimates.

(3) TIMING AND PROCEDURES.—(A) The President shall provide notice and opportunity for comment for each accounting statement. The President may delegate to an agency the requirement to provide notice and opportunity to comment for the portion of the accounting statement relating to that agency.

(B) The President shall propose the first accounting statement under this subsection not later than 2 years after the date of the enactment of this Act and shall issue the first accounting statement in final form not later than 3 years after such effective date. Such statement shall cover, at a minimum, each of the fiscal years beginning after the date of the enactment of this Act.

(4) CONTENT OF ACCOUNTING STATEMENT.—(A) Each accounting statement shall contain estimates of costs and benefits with respect to each fiscal year covered by the statement in accordance with this paragraph. For each such fiscal year for which estimates were made in a previous accounting statement, the statement shall revise those estimates and state the reasons for the revisions.

(B)(i) An accounting statement shall estimate the costs of major rules by setting forth, for each year covered by the statement—

(I) the annual expenditure of national economic resources for major rules, grouped by regulatory program; and

(II) such other quantitative and qualitative measures of costs as the President considers appropriate.

(ii) For purposes of the estimate of costs in the accounting statement, national economic resources shall include, and shall be listed under, at least the following categories:

(I) Private sector costs.

(II) Federal sector costs.

(III) State and local government administrative costs.

(C) An accounting statement shall estimate the benefits of major rules by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in health, safety, or environmental risks shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

(c) ASSOCIATED REPORT TO CONGRESS.—

(1) IN GENERAL.—At the same time as the President submits an accounting statement under subsection (b), the President, acting through the Director of the Office of Management and Budget, shall submit to Congress a report associated with the accounting statement (hereinafter referred to as an ''associated report''). The associated report shall contain, in accordance with this subsection—

(A) analyses of impacts; and

(B) recommendations for reform.

(2) ANALYSES OF IMPACTS.—The President shall include in the associated report the following:

(A) Analyses prepared by the President of the cumulative impact of major rules in Federal regulatory programs covered in the accounting statement on the following:

(i) The ability of State and local governments to provide essential services, including police, fire protection, and education.

(ii) Small business.

(iii) Productivity.

(iv) Wages.

(v) Economic growth.

(vi) Technological innovation.

(vii) Consumer prices for goods and services.

(viii) Such other factors considered appropriate by the President.

(B) A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

(3) RECOMMENDATIONS FOR REFORM.—The President shall include in the associated report the following:

(A) A summary of recommendations of the President for reform or elimination of any Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

(B) A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

(d) GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall, in consultation with the Council of Economic Advisers, provide guidance to agencies—

(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to sections 3 and 7 of this Act, including—

(A) detailed guidance on estimating the costs and benefits of major rules; and

(B) general guidance on estimating the costs and benefits of all other rules that do not meet the thresholds for major rules; and

(2) to standardize the format of the accounting statements.

(e) RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.—After each accounting statement and associated report submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

(1) for improving accounting statements prepared pursuant to this section, including recommendations on level of detail and accuracy; and

(2) for improving associated reports prepared pursuant to this section, including recommendations on the quality of analysis.

(f) JUDICIAL REVIEW.—No requirements under this section shall be subject to judicial review in any manner.

SEC. 8. STUDIES AND REPORTS.

(a) RISK ASSESSMENTS.—The Administrative Conference of the United States shall—

(1) develop and carry out an ongoing study of the operation of the risk assessment requirements of subchapter III of chapter 6 of title 5, United States Code (as added by section 4 of this Act); and

(2) submit an annual report to the Congress on the findings of the study.

(b) ADMINISTRATIVE PROCEDURE ACT.—Not later than December 31, 1996, the Administrative Conference of the United States shall—

(1) carry out a study of the operation of the Administrative Procedure Act (as amended by section 3 of this Act); and

(2) submit a report to the Congress on the findings of the study, including proposals for revision, if any.

SEC. 9. MISCELLANEOUS PROVISIONS.

(a) EFFECTIVE DATE.—Except as otherwise provided, this Act and the amendments made by this Act shall take effect on the date of enactment.

(b) SEVERABILITY.—If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment

to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

NOMINATION OF DR. HENRY FOSTER

Mr. LEVIN. Mr. President, we debated today whether a minority of members of the Senate will permit Dr. Henry Foster a vote on the confirmation of his nomination.

Dr. Foster is qualified to be Surgeon General of the United States. His 38-year career as a physician has reflected his concern for the medically underserved in our society and most clearly for young people. He has delivered more than 10,000 babies and trained hundreds of young doctors.

Unfortunately, his nomination has become a pawn in the game of Presidential politics. Apparently, some of our colleagues see an advantage in the Republican Presidential nominating process to using the issue of abortion as a rallying cry to frustrate the confirmation process. If a bipartisan majority of the U.S. Senate is prepared to vote to confirm the President's appointment, that vote should occur and Dr. Foster should be Surgeon General.

Pure and simple, the excuse for denying a vote to Dr. Foster is that he has performed a legal medical procedure on behalf of a tiny percentage of his patients.

Some of my colleagues in the Senate oppose a woman's right to choose on abortion, and that is their right. As lawmakers, they have the right to try to regulate it within constitutional limits and indeed, through the route of a constitutional amendment, they may even try to prohibit it. We have debated, and I'm sure we will again, debate that issue in this Chamber.

However, we should not try to turn Dr. Foster's nomination into that debate, because doing so is neither fair to the nominee, nor wise for the Nation.

I think Dr. Foster's views on abortion echo that of the vast majority of Americans. Abortion should be safe, legal, and rare. Now that last word rare is important. It's a word many people use when they talk about abortion, but Dr. Foster hasnt just talked about making abortion rare—he has done something about it.

Dr. Foster's I Have a Future program in Tennessee is considered an effective approach to teen pregnancy prevention. Indeed President Bush considered Dr. Foster's program one of his Thousand Points of Light, an outstanding example of Americans taking their own initiatives to make our country healthier and stronger. In this program, Dr. Foster has focused on helping young people develop confidence and self-esteem, because he knows that the teenager who can say ''I have a future'' is the teenager who can say ''I don't want to give up that future by having a baby.''

The qualities of leadership and vision Dr. Foster demonstrated in creating this program will make him a fine Surgeon General.

I was moved by Dr. Foster's testimony before the Labor and Human Resources committee and paid a visit in my State to a program that shares many of the goals he has achieved in his I Have A Future program.

At Detroit's Northern High School, the Michigan Metro Girl Scout Council, with support from the W.K. Kellogg Foundation, has developed the Jayhawk Teen Center. The center provides young people with a safe, clean, and attractive place to come after school. It's a place to play a game of checkers' or a game of pool or to use a computer to log onto the Internet. It's also a place where young people learn how to resolve conflicts without violence, how to avoid the dead end street of substance abuse, and how to practice sexual responsibility. A team of four student managers runs this center, and I wish you could see the pride on their faces when they describe the difference it's made in their lives and the lives of their fellow student. Here too, young people are realizing they have a future.

When I met with these students, I told them about Dr. Foster, the work he had done and why I thought he would make an even greater contribution to our country as Surgeon General. But I also told them it was possible his nomination would not even be allowed to come up for a vote. They were puzzled by that. They couldn't understand how a good man, a man who had done all Dr. Foster has done, could be denied that opportunity. And, I do not think the American people will understand it either. They won't understand why Presidential politicking should prevent us from considering the nomination of a physician so qualified for this position.

Mr. President, I voted to invoke cloture on the nomination. The President is entitled to his nominee, if a majority of the Senate consent. We should have that vote and find out.

NOMINATION OF DR. HENRY W. FOSTER

Mr. KENNEDY. Mr. President, I strongly support the nomination of Dr. Henry Foster to be Surgeon General of the United States. Earlier today, the Senate narrowly rejected an attempt to cut off the unconscionable filibuster being waged against him. I want to take this opportunity to review the case in more detail for Dr. Foster.

Dr. Foster is a distinguished physician who has dedicated his career to improving the quality of health care for women and children. Throughout his 38-year career in medicine, he has had a substantial influence on the quality of health care through his own practice, his teaching, and his community leadership.

His outstanding record as a physician, community leader, medical educator, and public servant make him superbly qualified for this important position.

I am pleased that we have made it this far in the nomination process, and that we are on the road to bringing this nomination up for a final vote. But opponents to this nomination are intent on a filibuster, and we must invoke cloture in order to get the nomination to a vote. Those who believe that this nomination deserves a vote must vote for cloture to make that happen.

Cloture is only the first step on the road to fairness. The second step—the step that counts—is the up or down vote on the nomination by the entire Senate.

Throughout this nomination process, several Republicans have stated that, in fairness, the nomination should go before the entire Senate for a final vote. Some Members have suggested that by allowing a cloture vote, the majority leader will be giving the nomination the fair consideration it deserves. They have suggested that a vote on cloture is the same as a vote on the nomination. Obviously, that is wrong and misleading.

Senators who feel strongly about the issue of fairness should vote for cloture, even if they intend to vote against the nomination itself. It is wrong to filibuster this nomination, and Senators who believe in fairness will not let a minority of the Senate deny Dr. Foster his vote by the entire Senate.

We do a disservice to Dr. Foster, the Senate and the Nation as a whole by prolonging this process. The Nation has now been without a Surgeon General for 6 months, and there is no justification for further delay.

Dr. Foster has demonstrated his impressive qualifications, his character, and his vision for the future of health care in this country. During the committee hearings, he successfully put to rest the charges attacking his character and his ability. He earned the admiration and respect of the committee and the American public.

Dr. Foster has developed innovative and effective approaches to some of the most difficult medical and social challenges facing communities across the Nation today. He began his unselfish crusade early in his career, and at every stage, he has been an inspiring example of personal sacrifice and service to others.

During the Labor Committee hearings, Dr. Foster ran the gauntlet of the committee and emerged with flying colors. With real and very moving eloquence, he described his background, his career, and his vision for the future of health care in America.

In doing so, he demonstrated his impressive qualifications for Surgeon General, and successfully dismantled all of the objections raised against him. Dr. Foster had the opportunity to make his case, and he did so very well.

He developed a model prenatal care program to improve health care for expectant mothers and their babies. He

tried his best to confront the problems of infant mortality, mental retardation and birth defects by bringing comprehensive prenatal and postnatal health care to tens of thousands of poor women.

During his 38-year career, he has been nationally recognized for his leadership and research on sickle cell anemia, infant mortality, adolescent health care, women's health care, and teenage pregnancy.

He has made a significant difference in the lives and futures of those he has served throughout his career, and there is no question that he will do the same for the Nation.

In a sense, Dr. Foster has been a pioneer all his life. In the course of his career, he has met and mastered many difficult challenges in medicine, and has had a positive impact in every community and every environment he has served.

Dr. Foster was born in 1933 in Pine bluff, AR. He earned his undergraduate degree from Morehouse College, and was accepted to medical school at the age of 20—the only African-American in his class.

After earning his medical degree in 1958, Dr. Foster served his internship at Detroit Receiving Hospital in Michigan.

From 1959 to 1961, he also served as a captain and medical officer in the U.S. Air Force, and was stationed in the State of Washington. He came to Boston to begin his residency training in 1961, and also served in the active Air Force Reserve during that year. In 1962 he went to Hubbard Hospital in Nashville, TN, for 3 years to complete his training.

He decided to begin his practice of medicine in the rural South. During that time, few doctors set up practice in the disadvantaged rural areas. Young, able, and well-trained in modern medicine, Dr. Foster went to Tuskegee to work among the poor, the uneducated, and the isolated residents living in racially divided rural Alabama.

He practiced there until 1973, when he returned to Nashville as chairman of the Department of Obstetrics and Gynecology at Meharry Medical College.

During his years in Tuskegee, the main local hospital served only whites, except for a few black emergency patients who would be put in rooms normally used as closets. So black patients often went to the J.A. Andrew Hospital, where Dr. Foster was on duty and took care of them.

During that time, Tuskegee suffered from a severe shortage of doctors, and Dr. Foster filled an urgent need. Most of his patients were poor, black women who had never seen a doctor in their lives before being treated by Dr. Foster. Most of them lived without electricity, a telephone, and in some cases, running water.

Many were forced to deliver their babies at home with lay midwives. Access to prenatal care was nonexistent. Dr. Foster provided this critical service, often in life or death situations and under the most difficult circumstances.

Conditions such as these would be a challenge for even a seasoned physician well into his practice.

But Dr. Foster took on this challenge at the very beginning of his career. He took sole responsibility for patients from five counties in rural Alabama, with a caseload well into the hundreds. He dedicated himself to providing adequate health care to these women and their children—sometimes delivering as many as three babies a day. The community remembers him as the town baby doctor—a doctor who has, in his 38-year career, delivered literally thousands of babies into the world.

As his practice and experience grew, Dr. Foster saw first hand how the lack of adequate health care contributed to an inordinately high level of infant mortality in the region. To deal with this problem, Dr. Foster applied for a grant from the Department of Health to expand the maternity and infant care program at Tuskegee Institute, and he directed this program from 1970 to 1973. Through this initiative, Dr. Foster made a significant impact on the effort to reduce infant mortality and give children a healthy start in life.

He brought together teams of doctors, nurses, social workers, and nutrition specialists to provide comprehensive services to women and children in rural communities. These teams worked to reach women early in their pregnancies, and to identify those with high potential for complications, so that they could receive proper health care throughout their pregnancy and following birth.

In his comprehensive approach to maternal and child care, Dr. Foster was well ahead of his time—so much so that it became a national model for what is now known as regional prenatal care. This kind of care involved extensive community outreach, specialized services for high risk women, and comprehensive care for mothers and infants both before and following birth. Very quickly, Dr. Foster became one of the Nation's leading experts on maternal and child health.

His initiatives helped Alabama women learn to take better care of themselves and their unborn children. He began working with the Robert Wood Johnson Foundation to extend his health care model to other parts of the country. In 1972, primarily because of his revolutionary work in this area, Dr. Foster received the high honor of being elected to the prestigious Institute of Medicine.

Dr. Foster has served on the Institute of Medicine since 1972. The Institute was chartered in 1970 by the National Academy of Science to promote the advancement of the health sciences and the improvement of health care. It enlists distinguished members of the medical and other professions in pursuit of these goals.

The Institute of Medicine is a highly selective professional body, with only 500 regular members, each of whom must be nominated by a current member and elected by the full membership. The institute is governed by a council of 21 members elected by the entire membership.

In 1992, the full membership recognized Dr. Foster's distinguished service for the institute—where he has served on numerous committees and boards—by electing him to the council. He was elected to a second term on the council in November 1994.

In 1978, Dr. Foster was also appointed by HEW Secretary Joe Califano to the Ethics Advisory Board, which was created to examine the moral and ethical questions raised by advances in medical science. Dr. Foster was appointed as one of the board's 15 members from a large group of nominations submitted by professional associations, scientific societies, public interest groups, and Members of Congress.

Members of the board included such leaders as James Gather, a former adviser to President Johnson and subsequent president of Stanford University board of trustees; Dr. David Hamburg, a former president of the Institute of Medicine and now president of the Carnegie Corporation of New York; Dr. Daniel Tosteson, dean of the Harvard Medical School for the past 20 years; and Dr. Sissela Bok, Harvard ethicist and philosopher.

Dr. Foster is also one of 10 members who serve on the Ethics Committee of the Nashville Academy of Medicine. The academy has over 1,400 members overall. The Ethics Committee acts as a tribunal for the discipline of academy members when complaints are received by other physicians concerning a member's ethical conduct.

According to the academy's executive director, Dr. Foster was chosen by the board of directors because of his ''outstanding reputation in the medical community.'' Dr. Foster has served on the committee for 10 years.

In the 1970's Dr. Foster also began a crusade to provide quality health care to adolescents, whom he recognized as having inadequate access to care or to information about their health needs. He was chosen by the Robert Wood Johnson Foundation to direct a multimillion-dollar grant program to increase health services for teenagers and young men and women.

Dr. Foster concentrated on young persons between the ages of 15 and 24, who lived in areas characterized by high rates of teenage pregnancy, violence, drug and alcohol abuse, and mental illness. Under his guidance, 20 teaching hospitals developed comprehensive health programs to expand services for youths in their own communities and to train doctors and nurses in the specialized care of high risk youth.

As a result of Dr. Foster's initiative, between 1982 and 1986, these programs

provided health services to 306,000 young people.

In addition, the program significantly increased the number of professionals trained in providing health care to adolescents. Formal training in adolescent care was given to 115 adolescent medicine fellows, 974 medical residents, and 753 graduate trainees in nursing, medicine, psychology, and social work.

Many of the Nation's first school-based clinics were a direct result of this initiative. During this time, Dr. Foster began to develop his strategy for combating the problem that presents perhaps one of the gravest dangers to health, opportunity, and the future for adolescents in America—teenage pregnancy.

Teenage pregnancy has become a crisis of significant proportions in this country. More than a million teenagers become pregnant each year. For every 1,000 women between the ages of 15 and 19, 13 become pregnant—the highest rate of teen pregnancy in the industrial world.

In 1987, as chairman of the Obstetrics/Gynecology Department at Meharry Medical College, Dr. Foster began a landmark effort to reduce the rate of teenage pregnancy. He went into the community, working with parents and community leaders in Nashville to find solutions to the problem. He listened to teenagers themselves, and asked them what they needed to help them do better in school, stay out of trouble, and avoid pregnancy.

The result was the I Have A Future program, which Dr. Foster established at Meharry Medical College in Nashville. He recognized that school-based clinics were not easily accessible when schools were closed, so he developed a program to reach teenagers where they live, during times when they need it most—after school, on the weekends, and during the summer—when they have free time, need something to do, and are at greatest risk of getting into trouble.

The I Have A Future program targets teenagers in two public housing developments in inner-city Nashville. It works to reduce teenage pregnancy, while also addressing other serious problems facing inner-city youth—drugs, violence, alcohol abuse, homicide, unemployment, and lack of educational opportunity. The program raises participants' self-esteem, promotes abstinence, and offers positive options to help teenagers make sensible decisions.

One of the most important points is that the I Have A Future program encourages teenagers to make responsible and sensible decisions. It gives them a purpose for abstaining from sex and avoiding high risk sexual behavior.

It raises their self-esteem and confidence. It gives them incentives to delay early sexual involvement and childbearing, and to focus instead on education, job skills, and personal responsibility. In short, the program teaches teens to think hard in advance about their choices and their future.

It offers on-going activities, such as after-school tutoring, computer training, sports, art and dance activities, and other recreation. Because the program is based where teenagers live, it draws parents and communities together to provide comprehensive and complementary services to participants, creating a stable and positive environment.

Dr. Foster has convinced these youths that they have an opportunity and a right to positive, productive, and fulfilling futures. As one I Have a Future teenager said:

> Dr. Foster has put excitement into learning. Learning could be fun if you do it in a fun way. Dr. Foster is doing a good deed by teaching kids to wait before they have sex. Dr. Foster would rather the young kids not have sex at all, because they still have a lot of things to look forward to in life. The ''I Have A Future'' program teaches you that you don't have to do what everyone else is doing.

Another teenager wrote:

> I am a three-year participant in the ''I Have A Future'' entrepreneurship program. Dr. Foster's program has greatly helped me. I have developed a positive attitude, good morals, confidence, and the willingness to become a strong, successful, black female through this extraordinary program. Dr. Henry Foster is a caring, honorable man who considers the welfare of others. He takes time out to understand and help those who may not be as fortunate. He is an inspiration to me.

One need only look at the results to see the program's effectiveness in helping students reach their goals for positive futures. The program has had a significant impact on the number of inner-city teenagers who go to college. In 1993, nine I Have A Future participants graduated from high school, and of this number, seven attended college and remain enrolled. In 1994, 24 participants graduated from high school, and 16 went on to college. Another four entered the Armed Forces. The numbers in 1995 promise to be even higher.

With the help of the program, these students have learned to overcome the considerable barriers to achievement in their inner-city environments. They have learned that they can achieve goals that they once though were impossible to attain.

This program has been so successful, and has had such a powerful impact on the community it serves, that it has been nationally recognized as an outstanding model to combat the problems facing American teenagers. It has won the support of prestigious national and local organizations.

It receives funding from the Carnegie Corporation of New York, the William T. Grant Foundation, Bill and Camille Cosby, the State of Tennessee Department of Health, the United Way of Middle Tennessee, and the Middle Tennessee Chapter of the March of Dimes.

The Tennessee Children Services Commission honored the program and named it one of six model teenage pregnancy programs in the State. The American Medical Association's National Congress for Adolescent Health also gave the program an award in recognition of its success in preventing teenage pregnancy.

The I Have A Future program was honored by President George Bush in 1991, who designated it as one of the Nation's Thousand Points of Light. As President Bush wrote on March 15, 1991:

> DEAR FRIENDS: I was delighted to learn of your outstanding work in behalf of your community. Your generosity and willingness to serve others merit the highest praise, and I am pleased to recognize you as the 404th ''Daily Point of Light.''
>
> Since taking office as President, I have urged all Americans to make community service central to their lives and work. Judging by your active engagement in helping others, it is clear that you understand this obligation.
>
> We must not allow ourselves to be measured by the sum of our possessions or the size of our bank accounts. The true measure of any individual is found in the way he or she treats others—and the person who regards other with love, respect, and charity holds a priceless treasure in his heart. With that in mind, I have often noted that, from now on in America, any definition of a successful life must include serving others. Your efforts provide a shining example of this standard.
>
> Barbara joins me in congratulating you and in sending you our warm best wishes for the future. May God bless you always.
>
> Sincerely,
>
> GEORGE BUSH.

In addition to his role as a physician and community leader, Dr. Foster has had an illustrious career in academic medicine. In 1973, Dr. Foster became chairman of the Department of Obstetrics and Gynecology at Meharry Medical College in Nashville, TN. As chairman and teacher, he trained doctors to work intensively with the communities they served—to treat the whole patient, not just a narrow specialty—to understand the issues and attitudes of patients, and to identify the barriers that exist to the provision of quality health services.

As a medical educator, Dr. Foster made a lasting impact on the young physicians he trained. One of his students, now a practicing obstetrician-gynecologist in California, wrote to the committee to support his nomination:

> I offer a unique perspective to Dr. Foster. He had a tremendous influence on my desire to be an OB/GYN. He taught me while at Meharry, and at our rotation at Tuskegee Institute. His bedside manner was gentle, his surgical technique impeccable, his empathy for these young women having their babies exemplary. I would say it was he who had the most profound influence on me to go into obstetrics.

This physician goes on to write:

> I offer, also, a unique perspective as I was one of about eight Caucasian students in a class of about 90 Blacks. I was the minority. And yet, I couldn't have felt more comfortable, mainly because of the efforts of men like Dr. Foster.
>
> As for the abortion issue, I would only state that he was training me right about the time Roe vs. Wade was in front of the Supreme Court. I am sure he often saw, as I did, the results of women taking medical care into their own hands when abortion was illegal. They would often be left permanently infertile, and some would even die.

This man is not only a good man, he is a great man. He represents to me what every student, at whatever level they would be at, should have—a professor who puts his arm around your shoulder, who cares about you both personally and professionally, who takes you under his wing; and as a student, you are proud to be under his wing.

I have not seen Dr. Foster since I graduated from Meharry Medical College in June of 1974, but I have often thought of him as I have practiced medicine these past 17 years. To not allow him to serve his country would be a greater loss for our country than it would be for him.

Senators, don't blow it, there are too few men like him.

For the past 21 years, Dr. Foster has trained hundreds of America's finest practitioners. He served as chairman of the Department of Obstetrics and Gynecology from 1973 to 1990, and went on to become dean of the School of Medicine and vice president for health services at Meharry from 1990 to 1993. Dr. Foster served as acting president of Meharry Medical College from October 1993 until he left for sabbatical in June 1994. Since that time, he has been a health policy fellow at the Association of Academic Health Centers.

Dr. David Satcher, director of the Federal Government's Centers for Disease Control and Prevention, also served as president of Meharry Medical College. He has testified to Dr. Foster's intellect, fairness, integrity, and talent as a medical professional.

Among many other of his colleagues, Dr. Louis Sullivan, president of Morehouse School of Medicine and the Secretary of Health and Human Services under President Bush, testifies to Dr. Foster's ability, intellect, fairness and talents as a medical professional. He writes:

I have known Henry Foster for more than 40 years since our undergraduate years at Morehouse College in Atlanta. In each phase of our long association, I have found Dr. Foster to be an extremely capable scholar, vigorously dedicated to his patients, an inspiring teacher, an innovative administrator, and a trusted friend of young people . . . Dr. Henry Foster would be an able, credible and trusted advocate. His warmth and sincerity make him an ideal spokesperson for good health and behavior change.

There is no question that Dr. Foster has devoted his life and career to improving the health of mothers and infants, reducing teenage pregnancy, and training skilled doctors in the responsible and competent practice of medicine. Through his work as a physician, as a medical educator, and as a community leader, he has made significant contributions that have improved the lives of those he has served.

Within the field of medicine, Dr. Foster has been recognized by his peers as a leader in his profession, a physician of unusual stature whose judgment is trusted in dealing with the most difficult questions of medical ethics and medical practice.

Any efforts to attack this nomination based on Dr. Foster's credibility are dead wrong.

Dr. Foster has had an honorable and distinguished career in medicine. He has been recognized by his professional colleagues and peers, his community and his patients as having the highest ability, integrity and compassion worthy of the post of Surgeon General.

Dr. Foster's vision for the health care of America is impressive, innovative, practical, and progressive.

With this nomination, the nation has an unprecedented opportunity to deal more effectively with some of the most difficult challenges facing us in health care today, and to do so under the leadership of an outstanding physician and outstanding human being, who has devoted his life to providing health care and opportunity to those who need help the most.

Opponents of this nomination continue to raise irresponsible objections based on certain specific questions about Dr. Foster's record. They have selectively chosen issues on which to base their objections, but they refuse to tell the whole story of Dr. Foster's commitment, credibility, and extraordinary qualifications that make him an excellent choice for Surgeon General.

I would like to take this opportunity to address these objections again and shed light on the facts that opponents do not want illuminated to give the complete story on Dr. Foster's record.

THE TUSKEGEE SYPHILIS STUDY

Some opponents to this nomination allege that Dr. Foster, a black physician in the rural South in the late 1960's, knew about and acquiesced in one of the worst abuses ever committed by the U.S. Government against black Americans since the Civil War. The allegation is preposterous on its face. Dr. Foster convincingly refuted it.

The committee has documents which clearly show that Dr. Foster was delivering a baby in a complicated procedure at the time of the meeting he supposedly attended in 1969 between the Public Health Service and the Macon County Medical Society.

None of the doctors at the meeting, except for one, Dr. McRae, place Dr. Foster at the meeting. And even Dr. McRae himself has admitted that the Federal officials at the meeting did not disclose that the patients in the study were not being treated for their illness.

The record gives every indication that the PHS officials glossed over the details of the study, and did not give the local doctors the true facts. So even if Dr. Foster had been there, which he was not, he would not have learned enough about the study to raise suspicion.

A physician named Dr. Ira Myers testified in 1974 that he had spoken with Dr. Foster about the study. But the date of their conversation is unclear, and there is no evidence that it occurred before, rather than after, the public scandal first broke in 1972.

In fact, Dr. Myers has rejected efforts to twist his testimony, and he has publicly supported Dr. Foster's recollection of their meeting.

There is ample evidence that Dr. Foster had no knowledge of the study until it was publicly disclosed in 1972, and that, upon learning of the study, he was outraged and called for the immediate treatment of the surviving patients.

Although it took 8 months for the U.S. Department of Health, Education and Welfare to provide that treatment, it is unfair to blame Dr. Foster for HEW's delay.

THE ''I HAVE A FUTURE'' PROGRAM

Some opponents of this nomination have chosen to attack Dr. Foster's I Have a Future Program, which he started in order to combat teenage pregnancy in the urban housing projects in Nashville in 1987.

Dr. Foster's opponents are reduced to the unseemly position of looking for bad news with a microscope. But Dr. Foster's program has worked. It has given teenagers hope. It helps them to make responsible and sensible decisions. It encourages abstinence.

In establishing the I Have a Future Program, Dr. Foster went to the families and community leaders first, and asked them what programs they thought teenagers needed. With the help of these parents and community leaders, he developed the program.

It gives teenagers a purpose for abstaining from sex and avoiding high risk sexual behavior. It helps them to focus instead on education, job skills, and personal responsibility.

In order to promote positive futures for its participants, the I Have a Future Program provides a wide variety of training, programs, and services. There is training in pre-employment skills; alcohol and drug use prevention; conflict resolution and violence prevention; and family life education.

Other activities include an entrepreneurship program, field trips and cultural outings, after-school tutoring, sports, art, and computer training.

The program has been criticized because it provides contraceptives to teenagers who choose to have sex. Distribution of contraceptives constitutes a small part of the overall program. Opponents must recognize, however, that this is the only responsible course to take in an environment where 74 percent of all teenagers have sex before the age of 15, and where 91 percent of their parents asked that a teen pregnancy program make it easier for sexually active teenagers to get birth control to prevent pregnancy and the spread of AIDs and other sexually transmitted diseases.

Those who say the program has been unsuccessful should talk to the teenagers in the program. There is no doubt that they think it works, especially when compared to their other options in the only world they know, which is full of violence, drug abuse, schools that to not teach, joblessness and hopelessness.

The participants are proud of their accomplishments. They have graduated from high school. They have gone on to college. They think they have a future—and in the real world they know,

thinking makes it so. Dr. Foster has lit a candle in their world—while his critics prefer to curse the remaining darkness.

President George Bush thought the program was such a success that he designated it as one of his well-known ''Points of Light,'' a significant national honor.

ABORTION

Republican opponents of a woman's right to choose are filibustering this nomination because Dr. Foster, a distinguished obstetrician and gynecologist, participated in a small number of abortions during his long and brilliant career.

From the beginning, the only real issue in this controversy has been abortion. All the other issues raised against Dr. Foster have disappeared into thin air. They have no substance now, and they have never had any substance. Dr. Foster has dispelled all of those objections, and he has dispelled them beyond a reasonable doubt.

The die-hard opponents of a woman's right to choose are doing all they can to block this nomination, because Dr. Foster participated in this small number of abortions. But Dr. Foster is a baby doctor, not an abortion doctor. He has delivered thousands of healthy babies, often in the most difficult circumstances of poverty and neglect.

Dr. Foster has also been charged with misleading the public by giving conflicting information about the number of abortions he performed.

Dr. Foster has acknowledged that he mistakenly spoke from memory in a desire to provide immediate information. It is clear, and there is no doubt in my mind, that Dr. Foster never intended to deceive the public.

He has since reviewed all available medical records, and has determined the number of procedures for which he is listed as physician of record.

It is time to end this numbers game. The most important point is that abortion is a legal medical procedure and a constitutionally protected right. Dr. Foster is an obstetrician and gynecologist, and it should be no surprise to anyone that he has participated in this procedure. To have done so is not a disqualification for the Office of Surgeon General of the United States. There is no justification for our Republican colleagues to try to make it one.

In my view, it is Dr. Foster's opponents who have a credibility problem, not Dr. Foster. They pretend to challenge his credibility on abortion, when in reality, as all of us know, they are trying to make abortion the issue indirectly, in a way that will not embarrass them. One need only review Dr. Foster's record for the past 38 years to see that his integrity, honesty, and credibility are beyond reproach.

Dr. Foster is a highly qualified physician who has devoted his life to improving health care for his patients and his community. His integrity and ability shine through all the muck that has been raked against him. He will serve the Nation well as Surgeon General, and he deserves the chance to do so.

He is a talented and passionate physician, a fine human being, and a remarkable role model of service to others. He has earned the right to have his nomination considered by the entire Senate, and I urge my colleagues to vote for cloture and give him the opportunity he deserves.

I ask unanimous consent that the text of President Bush's letter to the I Have a Future Program may be printed in the RECORD.

I also ask unanimous consent that a series of fact sheets on the nomination may be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, March 15, 1991.

Volunteers and staff of the ''I Have A Future'' Program, Meharry Medical College, Nashville, TN.

DEAR FRIENDS: I was delighted to learn of your outstanding work in behalf of your community. Your generosity and willingness to serve others merit the highest praise, and I am pleased to recognize you as the 404th ''Daily Point of Light.''

Since taking office as President, I have urged all Americans to make community service central to their lives and work. Judging by your active engagement in helping others, it is clear that you understand this obligation.

We must not allow ourselves to be measured by the sum of our possessions or the size of our bank accounts. The true measure of any individual is found in the say he or she treats others—and the person who regards others with love, respect, and charity holds a priceless treasure in his heart. With that in mind, I have often noted that, from now on in America, any definition of a successful life must include serving others. Your efforts provide a shining example of this standard.

Barbara joins me in congratulating you in sending you our warm best wishes for the future. May God bless you always.

Sincerely,

GEORGE BUSH.

DR. FOSTER AND THE TUSKEGEE STUDY—SUMMARY

In 1932, the Public Health Service (PHS) began a study of 600 black men in Macon County, Alabama, some 400 of whom had syphilis. The disease was not infectious in the 400 men, but held real health dangers for them. PHS assured the State that it would treat the men, but did not, even when penicillin became available. The men were not informed of the study by PHS, but thought that they were being treated. From roughly 1935 to 1945, PHS actively interfered with treatment of the men.

By the time Dr. Foster came to Tuskegee in 1965, the Study was far different than in 1935–1945. Barriers to treatment had crumbled, and by 1965 all but one of the men had received treatment from some local doctor or other source outside the Study. PHS obscured the Study, with misleading information as to treatment and consent in medical journals and locally. Even those providing services to PHS, such as X-rays, knew nothing.

PHS re-examined the study in February 1969, and arranged to meet with the local Medical Society on May 19, 1969. The PHS officials were acutely aware of the racial aspect of the Study, and the strong evidence is that they did not tell the black Tuskegee physicians that they were withholding treatment from black men without the men's knowledge or consent, or ask the black doctors to endorse such practices. Indeed, the evidence is that PHS told them that all of the men had received effective treatment, and gave a report of procedures for their ''continued'' care. Indeed, PHS finally did begin to provide medical information about the men to their local physicians in 1970.

One person, Dr. Luther McRae, has stated that Dr. Foster attended the May 19, 1969 meeting. No other person supports this recollection, and no document places Dr. Foster at the meeting. Official state medical records provide strong evidence that at the time of the May 19, 1969 meeting, Dr. Foster was delivering a baby. These records are far more reliable than the memory of Dr. McRae, whose license to practice medicine was revoked in 1985 for the improper distribution of controlled substances. Nor is there any evidence at all that any Society member at the meeting ever discussed it afterwards with Dr. Foster or any other person. Even Dr. McRae indicates that the PHS presentation was so unremarkable that he never mentioned it to anyone. When the full story of black men misled and untreated came to light in 1972, the shock of Dr. Foster and the other Macon County doctors was entirely genuine.

The other source of information about the Study was medical articles in specialty journals unlikely to be read by Dr. Foster. The articles are at times misleading, and in themselves did not alert even those national newspapers provided with copies in 1969 to the nature of the Study. To condemn Dr. Foster on the strength of these articles would be to condemn every member of the medical profession who practiced prior to 1972.

FACT STATEMENT

In 1932, the federal government's Public Health Service commenced its ''Study of Untreated Syphilis in the Male Negro in Macon County, Alabama.'' The subjects were not aware of the purpose of the study or even that they had syphilis. The study's purpose was to observe the effects of untreated syphilis, not to treat it.

In February 1969, at least partially in response to concerns about the racial, social, and moral implications of the study, the CDC convened an Ad Hoc blue-ribbon panel to consider whether to continue the study. At that meeting, the panel discussed whether to commence treatment of the untreated subjects, and devoted considerable discussion to the fact that treatment at that point was unlikely to do much good and might be dangerous.

They agreed to continue the study, but also to try to bring local physicians on board. Communications prior to the meeting as well as the minutes reflect that the CDC was concerned that it had a potentially explosive story on its hands, and several passages suggest that CDC doctors thought obtaining the concurrence of the Macon County doctors would provide protection from criticisms of the study. One comment referred to bringing the doctors on board as ''good public relations.''

On May 19, 1969, a meeting was held in Tuskegee, Alabama between the CDC and some members of the Macon County Medical Society. The CDC was represented by Dr. William J. Brown and Dr. Alphonso Holguin. Exactly what occurred at the May meeting is unclear, but what does seem clear is that the briefing was relatively short—the Macon County doctors who recall it estimate that it

lasted between ten and twenty minutes—and that crucial details of the study were not disclosed.

Indeed, the Macon County doctors who recall the meeting, never understood the single most important fact about the study—namely that the study was designed to observe untreated syphilis and that participants were not supposed to be treated. Moreover, none of the doctors recalls that the members of the Medical Society were asked, or agreed, to withhold treatment from the subjects.

Dr. Settler, the Secretary-Treasurer of the Medical Society in 1969, states that he remembers no discussion of treatment and no consent by the Medical Society to continuation of a study of untreated syphilis. In 1972, the Montgomery Advertiser reported that Dr. Settler had informed the Advertiser that Medical Society ''members agreed to continue the program, but consented under the assumption that the patients were receiving treatment for the disease. 'We were never really informed of a project in which people were not being treated,' he said.''

The Advertiser also reported in 1972 that Dr. Brown, the former chief of the venereal disease branch of the Center for Disease Control, ''conceded that there might have been a misunderstanding over certain details of the program discussed with Macon County physicians in 1969, but there was no intention on his or Dr. Holguin's part to mislead the society.''

Whatever the intentions of the CDC doctors, it seems clear that Dr. Brown's concession was accurate: there was a significant misunderstanding between federal officials and Macon County Medical Society members regarding the nature of the Tuskegee Syphilis Study. Any ''consent'' by the Medical Society to continuation of the study was based on incomplete and inadequate information.

Who attended the May 19 meeting is also unclear. Ten doctors have been identified by at least one person as being present at a meeting of the Macon County Medical Society at which a briefing on the Tuskegee Syphilis Study was presented, but half do not remember being present at such a meeting. Most who remember the meeting could not place the meeting in 1969.

Of those who recall being present at the meeting, each has memories of the meeting that differ significantly from the memories of the others. Only one—Dr. McRae, President of the Medical Society in 1969—says that he recalls that Dr. Foster was present. Another recalls that Dr. Foster was not present. Moreover, Dr. McRae recalls the presence of other doctors who do not recall the meeting.

Dr. McRae's recollections on a number of points ranging from how the May meeting was set up, to the nature of the Study, to Dr. Foster's role following the public disclosure of the Study in 1972 are all inconsistent with the facts as established by the documentary evidence. The confusion and mixing of memories after 26 years is not surprising.

The CDC doctors have also indicated that they believe the local Macon County physicians must have known about the Tuskegee Study in 1969, even without the briefing from the CDC. But on March 13, 1969, Dr. Ira Myers, the Alabama State Health Officer, wrote to CDC's Dr. Brown that Dr. Myers had discussed the proposed meeting with Dr. Ruth Berrey, the County Health Officer, ''and she knows of no opposition to the project at this time. She feels that it is not generally known or publicized. She doubts if the Medical Society is aware of its existence but hopes they will be sympathetic with the desires of the Public Health Service'' (emphasis added). This contemporaneous evidence from a doctor who knew the local Macon County physicians clearly refutes the assumption of the federal officials that all the Medical Society doctors knew about, much less understood the details of, the Tuskegee Syphilis Study.

This is what Fred Grey, the lawyer who sued the federal government on behalf of the Study participants, says about the local Tuskegee doctors:

''I don't believe they were aware of the details of the study. I think they probably were as much victims as were the participants themselves.'' (CBS Evening News, 2/24/95)

''Our research showed that the only ones who really made decisions were persons connected with the federal government and the (state) health department. Our research showed that none of the local doctors were responsible for the study.'' (The Washington Post, 2/25/95)

Broadus Butler, former President of Dillard University and head of the Ad-Hoc Commission appointed by HEW to review the Tuskegee Study, is equally clear that the local doctors had nothing to do with the Study:

''What was clear from our review is that this was a federal government study from start to finish, with no input or participation from local Tuskegee doctors. Any effort to assign blame to the local doctors—most of whom weren't even aware of the study until the very end and then were not aware of critical details—is terribly misplaced.

''There were really only two issues concerning this study: first, whether it should ever have taken place; second, whether it should have been stopped in the late 1940s when penicillin became widely available. These decisions were made solely by the federal government. By 1968, one of the study researchers advised the team and the federal government that treatment was no longer a viable option.'' (2/24/95)

DR. FOSTER AND HIS RECORD ON ABORTION

Dr. Henry Foster is one of the nation's leading physicians and medical educators. During his 38-year career as an obstetrician/gynecologist, he has delivered thousands of babies and instructed hundreds of young physicians. From 1990–93, Dr. Foster served as the Dean, School of Medicine, Meharry Medical College in Nashville, after having served as the Chairman of the Department of Obstetrics and Gynecology and Chief of the Obstetrics Unit of the Hubbard Hospital for seventeen years. Before coming to Meharry, Dr. Foster served as the Chief of Obstetrics and Gynecology at the John A. Andrew Memorial Hospital at Tuskegee Institute, Alabama, where he also established and was the Director of the Maternity and Infant Care Project. In these programs and through the creation of the ''I Have a Future'' Program in lower-income areas of Nashville, Dr. Foster has worked to prevent unwanted pregnancies.

Much debate over the nomination of Dr. Foster to be Surgeon General of the United States has centered on the issue of abortion. Critics charge that Dr. Foster has promoted abortion, provided misleading accounts of his abortion practices, and has encouraged the development of drugs for abortion. This paper examines Dr. Foster's views on abortion, his practices, and his participation in a nationwide clinical trial funded by the Upjohn Company.

I. STATEMENTS AND WRITINGS

Critics contend that Dr. Foster has encouraged the use of abortion as a contraceptive and has promoted abortion in his speeches, writings and activities such as Planned Parenthood.

Dr. Foster has consistently advocated greater access to maternal and child health care, particularly for low-income communities. He also has encouraged both abstinence, as in the ''I Have a Future'' program, and family planning where appropriate.

However, he has explicitly disavowed the use of abortion as a contraceptive. In a 1975 presentation entitled ''Family Planning and the Black Community,'' Dr. Foster voiced his belief that women should use birth control measures to prevent unwanted pregnancies, rather than rely on abortions.

Dr. Foster also has consistently supported adequate counseling for patients who are considering pregnancy termination. He has vocalized the need for informed consent for a patient to make this personal decision. As the account of one former patient demonstrates, Dr. Foster has in fact counseled women not to terminate their pregnancy.

Dr. Foster's association with Planned Parenthood demonstrates his belief that Roe versus Wade struck an appropriate balance between the state's interest in health and the patient's interest in making a decision about her pregnancy. Dr. Foster has repeatedly voiced his concern that women be afforded their constitutional right to choose whether or not to terminate their pregnancies. He has stated that ''abortions should be safe, legal and rare.'' In a speech to Planned Parenthood in 1984, Dr. Foster argued against overly burdensome state-imposed barriers to access to abortion, because they would have encouraged resort to unsafe, clandestine abortions.

Thus, an examination of Dr. Foster's statements, writings, and activities shows that he has supported access to abortion, but has not promoted the procedure as a substitute for abstinence, education or family planning.

II. PARTICIPATION IN ABORTIONS

Dr. Foster has admitted that he made a mistake by guessing the number of abortions he performed without first consulting the medical records. To rectify that problem, he asked Meharry Medical College to search its records to determine the number of abortion procedures that he performed or participated in.

As the attached letter form the General Counsel of the Meharry Medical College states, Meharry Medical College/Hubbard Hospital searched its records and found that Dr. Foster had performed or participated in 39 abortions during his tenure from 1973–1990. It should be noted that this period includes the entire post-Roe versus Wade era. Additionally, Meharry Medical College records indicate that for approximately three-quarters of these 39 patients, another physician or resident participated in or performed the abortion procedure.

The John Andrew Memorial Hospital in Tuskegee Institute has been closed for several years and records covering Dr. Foster's tenure were not available for a search.

III. MEDICAL RESEARCH AND THE UPJOHN STUDY

During the 1980's, the Upjohn Company sponsored an FDA-approved, multi-center clinical trial throughout the country to determine the safety and efficacy of a drug—methyl ester prostaglandin—for use in inducing abortions. Upjohn's study tested whether administering this drug in a suppository form could provide a safe and less expensive way of performing a legal, medically accepted procedure.

While Chairman of the Department of Obstetrics and Gynecology at Meharry Medical College and Hubbard Hospital, Dr. Foster served as the principal investigator for the Meharry site, one of numerous sites for the Upjohn study throughout the country. The clinical trial at the Meharry site was part of a research project conducted in an academic

setting. All medical procedures were performed in the university hospital. All patients were volunteers who were legally approved for pregnancy termination in the State of Tennessee.

The clinical trial at the Meharry site was subjected to outside oversight and review. FDA regulations require that an institutional review board review and approve all clinical trials such as the Upjohn study. FDA regulations at the time required that the institutional review board consist of lay persons of various expertise and backgrounds. The Meharry site had such institutional review panels overseeing the Upjohn study.

Dr. Foster served as the principal investigator or grant administrator for the Meharry site. Residents administered the suppositories. As grant administrator, Dr. Foster did have certain responsibilities. FDA regulations specify that the duties of the investigator include ensuring the consistency of the investigation with the FDA-approved plan and applicable regulations, ensuring proper procedures are followed as well as protecting the rights, safety and welfare of those taking part in the clinical trial.

Dr. Foster published in 1985 an article summarizing the results of the administration of the Upjohn product to a group of 60 women who were eight or fewer weeks' pregnant. As discussed in the article, the study criteria for success included safety, efficacy and patient acceptability. Fifty-five of the women had successful results measured by these criteria; four women required hospitalization and follow up procedures. One woman withdrew from the study.

Dr. Foster's work as the principal investigator for the Meharry site was consistent with his responsibilities as Department Head to allow opportunities for research into methods for improving legal, medically accepted procedures. Such research projects also are consistent with the standards for accreditation of medical schools. Guidelines published by the Accreditation Council for Graduate Medical Education state:

''The quality of the educational experience within a department of obstetrics and gynecology is enhanced by an active research environment. It is highly desirable that every program encourage each resident to be involved in a research project.''

Additionally, these guidelines provide that teaching staff should take part in scholarly activity, including research projects that result in publications.

As a postscript, it is worth noting that Upjohn eventually determined not to seek FDA approval for the drug that was the subject of the study.

DR. FOSTER AND CREDIBILITY

Dr. Henry Foster's career in medicine has been a model of integrity and commitment to ethical conduct.

It is, by now, well known that Dr. Foster has devoted his 38 years of practice to improving the health care of mothers and babies, reducing teenage pregnancy and caring for those who too often go without care.

What may be less well known is that Dr. Foster has been recognized by his peers, time and again, as a leader in his profession, a man of unusual stature, a physician whose judgment is trusted in grappling with the ethics of medicine and medical practice. If the truest test of professional character is the esteem with which one is held by his colleagues, Dr. Foster stands in the top rank.

The Institute of Medicine. Dr. Foster has served on the prestigious Institute of Medicine since 1972. The Institute was chartered in 1970 by the National Academy of Sciences to promote the advancement of the health sciences and the improvement of health care. The Institute was designed to enlist distinguished members of the medical and other professions in pursuit of these goals.

The Institute is a highly selective professional body, with only 500 regular members, each of whom must be nominated by a current member and elected by the full membership. The Institute is governed by a Council of just 21 members, elected by the entire membership.

In 1992, the full membership recognized Dr. Foster's distinguished service for the Institute—where he has served on numerous committees and boards—by electing him to the governing Council. The membership elected him to a second term of the Council in November 1994.

The Ethics Advisory Board. In 1978, then HEW Secretary Joe Califano created the Ethics Advisory Board to examine the moral and ethical questions raised by the historic breakthroughs being made in the world of medical science. He appointed Dr. Foster as one of the Board's 15 members from a large group of nominations submitted by professional associations, scientific societies, public interest groups and Members of Congress.

The Board was an extraordinary collection of doctors, lawyers, clinicians, researchers and even a leading theologian, Rev. Richard McCormick of Georgetown University. Members included James Gaither, a former advisor to President Johnson and subsequent President of the Stanford University Board of Trustees; Dr. David Hamburg, a former President of the Institute of Medicine and now President of the Carnegie Corporation of New York; Dr. Daniel Tosteson, Dean of the Harvard Medical School for the past 20 years; and Dr. Sissela Bok, Harvard ethicist and philosopher.

The Ethics Advisory Board was active from 1978 to 1980. In 1980, Congress established its own commission on medical ethics (the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research) and the EAB's appropriations were shifted to this new body.

Nashville Academy of Medicine—Ethics Committee. Dr. Foster is one of 10 members of the 1400-member Nashville Academy of Medicine who serve on the Academy's Ethics Committee.

The function of the Ethics Committee is to act as a tribunal for the discipline of Academy members when complaints are received by other physicians concerning a member's professional conduct.

According to the Academy's Executive Director, Dr. Foster was chosen by the Board of Directors to serve on the Ethics Committee because of his ''outstanding reputation in the medical community.'' Dr. Foster has served on the Committee for 10 years.

In short, those opponents of Dr. Foster's nomination who pretend to base their opposition on his lack of credibility or integrity are flying in the face of a career's worth of honorable and distinguished conduct, recognized as such by Dr. Foster's professional colleagues and peers.

MEHARRY MEDICAL COLLEGE,
Nashville, TN.

To Whom It May Concern:

Pursuant to a request by Dr. Henry Foster, Jr., we have undertaken a search of the medical records of Meharry Medical College pertaining to operations performed by Dr. Foster during the years 1973–90. Our records indicate that Dr. Foster participated in or performed 39 abortions, not including termination of tubal pregnancies or follow-up procedures made necessary by incomplete and/or spontaneous abortions. Our records also indicate that in approximately three quarters of these procedures, at least one other physician or a resident performed or participated in the surgery, in addition to Dr. Foster.

Sincerely yours,
RICHARD E. JACKSON, J.D.,
General Counsel.

DR. FOSTER AND STERILIZATION

In the 1960's and early 1970's, Dr. Foster performed a small number of therapeutic sterilizations on severely mentally retarded women. Some people have sought to distort this information by failing to place Dr. Foster's practice in the context of the time and prevailing medical practice.

In August 1974, Dr. Foster delivered a paper before a meeting of the National Medical Association that included a discussion of the hysterectomies he had performed between May 1963 and May 1973. The paper, which was published in 1976, includes a bar chart showing that, among other seasons for performing hysterectomies to remove normal uteruses, he had performed four such procedures on severely mentally retarded women. Dr. Foster noted that hysterectomies could be performed on women with severe mental retardation ''either for sterilization or to eliminate the menses which is of significant hygienic benefit. . .'' See Henry W. Foster, Jr., Removal of the Normal Uterus, 69 Southern Medical Journal 13, 15 (1976).

Dr. James Todd, Vice President of the American Medical Association has confirmed that performing hysterectomies on severely retarded women for pregnancy prevention or to eliminate the menses for hygienic purposes ''was thought to be the state of medicine back then.'' So has Dr. Joseph Gambone, Acting Director of Reproductive Endocrinology at UCLA, who indicates that the practice was common at the time. Dr. Luigi Mastroianni, a professor of obstetrics and gynecology who heads the division of human reproduction at the University of Pennsylvania, has said such procedures ''were the most humane method we had to allow people with severe mental deficiency to have any comfort at all.''

In that same 1976 article, Dr. Foster stressed that ''obstetricians and gynecologists must guard vigilantly against the injudicious and indiscriminate removal of the normal uterus.'' Dr. Arthur Caplan, Director of the Center for Bioethics at the University of Pennsylvania, has said that Dr. Foster's 1974 paper on this subject ''represents an enlightened and cutting-edge opinion about the need for caution and care with respect to that form of surgical sterilization.''

By the late 1970's, medical practice and legal standards had shifted, as had Dr. Foster's views. In 1980, Dr. Foster wrote: ''It is understood if the patient is judged to be incapable of comprehending and thus not able to provide an informed consent, she must not be sterilized.'' See Henry W. Foster, Jr., Ambulatory Gynecologic Surgery, in Ambulatory Obstetrics & Gynecology 399, 416 (George Ryan ed. 1980).

At all times, Dr. Foster's practice has been consistent with prevailing medical norms. In many ways, as Dr. Caplan's comments reveal, Dr. Foster has been ahead of his time on these issues.

DR. FOSTER AND PLANNED PARENTHOOD

Planned Parenthood is a health care organization which manages nearly 1,000 health centers in 49 states and the District of Columbia. Planned Parenthood serves four million women and men each year, making it the nation's largest provider of comprehensive reproductive health care, including breast examinations, PAP tests, testing and treatment for sexually transmitted diseases,

infertility services, birth control methods and counseling, and comprehensive sexuality education. Dr. Foster has served on local and national Planned Parenthood boards since 1974.

Planned Parenthood and Dr. Foster share the mission of resolving our nation's most troubling health crisis by providing effective solutions which focus on prevention and responsibility. Throughout his career, Dr. Foster has been a driving force in the prevention of teen pregnancy and a leader in the field of public health. The highly effective, ''I Have a Future'' program, which Dr. Foster developed, stresses sexual responsibility, self-control, education, and job skills and provides positive alternatives to having children. Similarly, Planned Parenthood's medical and educational services help prevent nearly half a million unintended pregnancies each year.

Although Dr. Foster does not advocate abortions as a substitute for family planning, he supports Planned Parenthood's efforts to provide abortion services when a woman chooses to have the legal, constitutionally-protected procedure. Dr. Foster has repeatedly voiced his concern that all women have access to reproductive health care, including abortion. He also has supported Planned Parenthood's efforts to secure the passage of the Freedom of Access to Clinic Entrances Act, legislation designed to protect patients and staff at women's health care centers.

While Dr. Foster was a member of the organization's Board of Directors, the Nashville affiliate filed a lawsuit challenging a Tennessee law requiring parental notice before a teenage girl could obtain an abortion. Dr. Foster has sought to involve parents in their children's decisions to obtain contraceptive or abortion services and strongly believes that parents should be involved in these decisions. He has worked to limit the number of abortions performed on teenagers by promoting abstinence and alternatives to having children through programs such as the ''I Have a Future'' program. Dr. Foster realizes, however, that some young women cannot notify their parents, because they come from homes where physical violence or emotional abuse is prevalent or because their pregnancy is the result of incest. Dr. Foster opposed the Tennessee law because it required parental notice for a minor seeking abortion with no exception for minors from abusive homes and no bypass mechanism as required by the United States Supreme Court.

To prevent unwanted pregnancies and to provide alternatives to sexual activity, Dr. Foster looks primarily to parents and families. He encourages parents to educate their children about sexuality and reproductive health and to promote the need to postpone premature sexual activity. Dr. Foster also realizes that schools may play an important role in the process and advocates developing age-appropriate educational programs which promote abstinence and which prepare teenagers for responsible sexual involvement as adults.

DR. FOSTER AND ''I HAVE A FUTURE'': USING ABSTINENCE TO PREVENT TEEN PREGNANCY

An examination of ''I Have A Future's'' teaching modules—as well as the many supplemental materials [brochures, videos, games, posters] they utilize—evidences the strong abstinence message that is integral to the program. IHAF promotes abstinence to prevent teen pregnancy in several ways:

First, by stressing the value of abstinence and explaining why it is so important.

Second, by involving the family and community in promoting this value.

Most important, the program does not just say the word ''abstinence'' a few times and leave it at that. IHAF devotes considerable time and effort to giving teens the tools they need to be responsible, to make good decisions and then stand up for what they believe in, and, most importantly, to resist social pressures to engage in sexual activity.

I. IHAF'S CURRICULUM

A. Family life education module [staff manual] final copyrighted version; September 1994

Abstinence message:

''Responsible sexual behavior is defined as abstinence or acting upon the decision to participate in sexual intimacy while maintaining a healthy body and exercising assertive family planning.'' [p. 2]

''It is important for people to practice responsible sexual behavior . . . 1) Refrain from having sexual intercourse . . . However, it is best for children to postpone initiating sexual intercourse and other risky sexual behaviors beyond the early adolescent years.'' [p. 2]

Kujichagulia [Self-Determination] ''. . . one needs to have Kujichagulia (Self-Determination) in order to cope with the negative peer pressure toward early sexual intercourse, and careless sexual activity.'' [p. 58]

''Adolescents often have the impression that 'everyone is doing it'. Surveys show that more than half of all adolescents do indeed say 'No' to sex.'' [p. 70]

''Discussion: 'Encourage the participants to do their best to postpone having sex at an early age. Before making up their mind to have sex now or wait, they should ask themselves the following questions:

1. ''Can I take full responsibility for my actions?''

''Am I willing to risk STDs, pregnancy, future infertility?''

''Can I handle being a single parent or placing my child for adoption?''

''Am I ready and able to support a child on my own?''

''Can I handle the guilt and conflict I may feel?''

''Will my decision hurt others? My parents? My friends?'' [p. 60]

''Decisions about sex may be the most important decisions one will ever make. So, think before you act!'' [p. 60–1]

One exercise is called the ''STD Handshake.'' It asks the teens to pick an index card from a bag. Some say ''STDs'' and others say ''Abstinence.'' The point of this exercise is that Abstinence is the only way to completely avoid the risk of Sexually Transmitted Diseases. [p. 65]

''Young men and women can say 'no' and postpone sexual intercourse. But, if they do intend to have sex, they must be informed of the possible consequences of sexual behavior. [If participants are not ready for the responsibility of parenthood, they must consider the various ways of acting sexually responsible.]'' [p. 58]

''There are two ways of exercising responsible sexual behavior. One can abstain from sexual intercourse or one can use contraceptives/condoms effectively.'' [p. 75]

''In order to promote the value of sexual responsibility, it is critical that the community seeks to uplift this value in a unified manner. [p. 32]

''Each participant is encouraged to discuss values around sexuality with their parents and/or other adults whose values are important to the participant.'' [p. 32]

''Educate participants regarding responsible sexual decision-making.'' [p. 11]

''The teenage years are a good time to assist others with child care responsibilities but not to take on the full responsibility of being a parent.'' [p. 46]

''It is important to remember that the purpose of being a teenager is to finish the process of becoming an adult and not to create children before achieving adulthood.'' [p. 53]

To show teenagers what having a baby can do to their lives, one of the exercises is a ''Job Interview for Parent.'' It discusses issues like financial resources, time required, emotional needs, etc. to try to convince teenagers to postpone early sex and pregnancy until a more appropriate time. [p. 50]

Teaching teens to say no:

''There is no reason for adolescents to feel different or strange if they say 'No'. Because of peer pressure, adolescents need to master the assertive communication skills of knowing how to say 'No'. They may often worry about hurting friends' feelings if they say 'No'. Hurt feelings go away but an unintended pregnancy and a baby don't go away.'' [p. 70]

''Goals: 'Using assertiveness skills to avoid unwanted sexual behavior [and to insist that contraception be utilized.]'' [p. 70]

Motto: ''If you don't stand for something, you can fall for anything.'' [p. 32]

''To provide participants with options for confronting pressure to do something that they are uncertain they want to do.'' [p. 35]

''Definition of Assertive: 'to exhibit confidence and adherence to decision despite others' opinion.' '' [p. 38]

''Example of an assertive technique is to 'Use broken record technique (Keep repeating a simple negative response, don't provide excuses).' '' [p. 38]

''Emphasize that when a person feels good about him/herself, that person can express themselves openly, honestly, and assertively.'' [p. 39]

''Remind participants that their purpose is to develop positive assertive skills for responding to pressure as an adolescent and an adult.'' [p. 39]

B. Family life education module [Staff manual][1] November 1991

Abstinence Message:

''Responsible sexual behavior is defined as abstinence or acting upon the decision to participate in sexual intimacy while maintaining a healthy body and exercising assertive family planning.'' [p. 3]

Kujichagulia [Self-Determination] ''. . . one needs to have Kujichagulia (Self-Determination) in order to cope with the negative peer pressure toward early sexual intercourse, and careless sexual activity.'' [p. 58]

''Adolescents often have the impression that 'everyone is doing it'. Surveys show that more than half of all adolescents do indeed say 'No' to sex.'' [p. 70]

''Discussion: Encourage the participants that they should do their best to postpone having sex at an early age. Before making up their mind to have sex now or to wait, they should ask themselves these questions:

1. ''Can I take full responsibility for my actions?''

2. ''Am I willing to risk STD, pregnancy, future infertility?''

3. ''Can I handle being a single parent or placing my child for adoption?''

4. ''Am I ready and able to support a child on my own?''

5. ''Can I handle the guilt and conflict I may feel?''

6. ''Will my decision hurt others? My parents? My friends?'' [pp. 60–61]

''Decisions about sex may be the most important decisions one will ever make. So, think before you act!'' [p. 61]

One exercise is called the ''STD Handshake.'' It asks the teens to pick an index card from a bag. Some say ''STDs'' and others say ''Abstinence.'' The point of this exercise is that Abstinence is the only way to

[1] Footnotes at end of article.

completely avoid the risk of Sexually Transmitted Diseases. [p. 65]

''Young men and women can say 'no' and postpone sexual intercourse. But, if they do intend to have sex, they must be informed of the possible consequences of sexual behavior. [If participants are not ready for the responsibility of parenthood, they must consider the various ways of acting sexually responsible.]'' [p. 58]

''There are two ways of exercising responsible sexual behavior. One can abstain from sexual intercourse or one can use contraceptives/condoms effectively.'' [p. 75]

''Educate participants regarding responsible sexual decision-making.'' [p. 11]

''The teenage years are a good time to assist others with child care responsibilities but not to take on the full responsibility of being a parent.'' [p. 16]

''It is important to remember that the purpose of being a teenager is to finish the process of becoming an adult and not to create children before achieving adulthood.'' [p. 53]

To show teenagers what having a baby can do to their lives, one of the exercises is a ''Job Interview for Parent.'' It discusses issues like financial resources, time required, emotional needs, etc. to try to convince teenagers to postpone early sex and pregnancy until a more appropriate time. [p. 50]

Teaching Teens To Say No:

''There is no reason for adolescents to feel different or strange if they say 'No'. Because of peer pressure, adolescents need to master the assertive communication skills of knowing how to say 'No'. They may often worry about hurting friends' feelings if they say 'No'. Hurt feelings go away but an unintended pregnancy and a baby don't go away.'' [p. 70]

''Goals: Using assertiveness skills to avoid unwanted sexual behavior [and to insist that contraception be utilized.].'' [p. 70]

Motto:''If you don't stand for something, you can fall for anything.'' [p.32]

''To provide participants with options for confronting pressure to do something that they are uncertain they want to do.'' [p. 35]

''Definition of Assertive: 'to exhibit confidence and adherence to decision despite other's opinion.' '' [p. 38]

''Example of an assertive technique is to 'Use broken record technique (Keep repeating a simple negative response, don't provide excuses).' '' [p. 38]

''Emphasize that when a person feels good about him/herself, that person can express themselves openly, honestly, and assertively.'' [p. 39]

''Remind participants that their purpose is to develop positive assertive skills for responding to pressure as an adolescent and an adult.'' [p. 39]

C. Family life education module [staff manual][1] September 1989

Abstinence Message:

Suggests handing out pamphlet: ''Many Teens Are Saying No''[2]

''The Family Life Education Module is designed to help . . . generate attitudes and values positive toward contraception and abstinence.'' [1st page after course outline, no page #8]

''Deep love between close friends can exist without the presence of open or conscious sexual desire . . . Sex is not what makes a relationship work. Sharing thoughts, beliefs, feelings, and most of all, mutual respect, is what makes a relationship strong.'' [Session IX]

''Sexual feelings may be expressed in a variety of ways, only one of which is sexual intercourse.'' [Session IX]

''Decisions about sex may be the most important decisions you'll ever make. So, think before you act!'' [Decision-Making Handout]

Should you have sex now or should you wait? Ask yourself these questions before making up your mind?

1. ''Can I take full responsibility for my actions?''
2. ''Am I willing to risk STD, pregnancy, future infertility?''
3. ''Can I handle being a single parent or placing my child for adoption?''
4. ''Am I ready and able to support a child on my own?''
5. ''Can I handle the guilt and conflict I may feel?''
6. ''Will my decision hurt others? My parents? My friends?''

Teaching Teens To Say No:

''Let the youth know that it's okay to say 'no'. There is nothing wrong with saying it. Even more important, there is no reason for them to feel different or strange if they do say 'no'.'' [Assertive Communication]

''Because of pressure from their friends (peer pressure) the youngsters need guidance in knowing how to say 'no'. Young people often worry about hurting friends' feelings if they say 'no'. Hurt feelings go away but an unintended pregnancy and a baby don't'' [Assertive Communication]

D. Prosocial skills modules [staff manual] October 1994

''Emphasize that when we choose tough values such as abstinence, our choice may not be the most popular choice. We are likely to receive little positive reinforcement for these choices. Therefore, we must develop the capacity to praise ourselves for courage in living the values we believe are best for us.'' [p. 28]

''To provide a framework for adolescents to understand that to say 'no' is not abnormal but normal.'' [p. 19]

''Emphasize the need to make you own decisions and to take responsibility for the outcome.'' [p. 19]

''To assist participants in developing skills to resist group pressure.'' [p. 28]

''To increase participants' positive refusal skills.'' [p. 28]

''To teach participants how to look beyond the immediate benefits and consider the long-term consequences.'' [p. 28]

''To assist participants in developing coping strategies when their peer group does not positively reinforce him/her for standing up for his/her beliefs.'' [p. 31]

''To teach participants how to cope with group pressure.'' [p. 33]

Quote from Malcolm X: ''It is always better to form the habit of learning how to see things for yourself, listen to things for yourself, and think for yourself; then you are in a better position to judge for yourself.'' [p. 36]

E. Prosocial skills module [staff manual] November 1991

''Emphasize that when we choose tough values such as abstinence, our choice may not be the most popular choice. We are likely to receive little positive reinforcement for these choices. Therefore, we must develop the capacity to praise ourselves for courage in living the values we believe are best for us.'' [p. 28]

''To emphasize that even when you make a decision, you are not always totally locked into that decision if you have reservations.'' [p. 19]

''To provide a framework for adolescents to understand that to say 'no' is not abnormal but normal.'' [p. 19]

''Emphasize the need to make your own decisions and to take responsibility for the outcome.'' [p. 19]

''To assist participants in developing skills to resist group pressure.'' [p. 28]

''To increase participants' positive refusal skills.'' [p. 28]

''To teach participants how to look beyond the immediate benefits and consider the long-term consequences.'' [p. 28]

''To assist participants in developing coping strategies when their peer group does not positively reinforce him/her for standing up for his/her beliefs.'' [p. 31]

''To assist participants in confronting those feelings which may prompt them into responding impulsively and giving in to the group.'' [p. 31]

''Emphasize that no one has to fall prey to persuasion. By getting the facts, one can make their own decisions and define for themselves what they will do and who they will be.'' [p. 33]

Quote from Malcolm X: 'It is always better to form the habit of learning how to see things for yourself, listen to things for yourself, and think for yourself; then you are in a better position to judge for yourself.' [p. 36]

F. ''I have a future'' program evaluation: Renewal grant proposal to W.T. Grant Foundation April 1991

One Goal [Hypothesis] of The Program: ''Active participants will delay the initiation of sexual intercourse longer than youth who do not participate and comparison site youth.''

II. BROCHURES

As Dr. Foster mentioned during his hearings, since its inception ''I Have A Future'' has distributed brochures to the teenagers—and even to their parents—that have a strong abstinence message. A variety of brochures have been used over the years, as can be seen below. IHAF staff is always looking for new brochures and teaching materials to catch the teens attention and get the message out in different ways.[4]

A. ''Many teens are saying 'no' '' [U.S. Department of Health and Human Services, 1986][5]

''Don't be fooled into thinking most teenagers are having sex. They aren't!! There's a lot to know before you say 'yes' to having sex.''

''Face it! Sex for young people is pretty risky!''

''Sexual feelings can be pretty strong! So think before you act. Think about your future. Think about the consequences. In other words, think about yourself! Ask yourself, 'Am I ready to have sex now?' To answer this question you need to decide which is more important to you—giving in to your sexual feelings or being true to your inner feelings that may be telling you to 'wait.' ''

''There's a lot to know before making your decision about whether or not to say ''yes'' to sex:

Is having sex in agreement with your own moral values?

Would my parents approve of my having sex now?

If I have a child, am I responsible enough to provide for its emotional and financial support?

If the relationship breaks up, will I be glad I had sex with this person?

Am I sure no one is pushing me to have sex? [—]

If any of your answers are NO, then you'd better WAIT.''

''Decisions about sex may be the most important decisions you'll ever make. So, think before you act.''

''What should I know if I decide not to have sex? Congratulations . . . contrary to rumor, so have lots of other teens. It's not hard to say ''NO'' and still remain friends if you are careful not to hurt the other person. For example you might say:

'I like you a lot but I'm just not ready to have sex.'

'I don't believe in having sex before marriage. I want to wait.'

'I enjoy being with you but I don't think I'm old enough to have sex.'

'I don't feel like I have to give you a reason for not having sex. It's just my decision.'

''Also, there are different ways to show affection for another person without having sexual intercourse.''

''Try to avoid situations where sexual feelings become strong. ''Stopping'' is much harder then.''

''Talk about your feelings and what seems right for you. If you and you partner can't agree, then maybe you need to find someone else whose beliefs are closer to your own.''

''Will having sex really make you more popular, more mature, more desirable? Probably not. In fact, having sex may even cause your partner to lose interest. The one sure thing about having sex is that you may be in for problems you don't know how to handle.''

''Sex is not what makes a relationship work.''

Watch out for lines like, ''If you care about me, you'll have sex with me.''

You don't have to have sex with someone to prove you like them.

Sex should never be used to pay someone back for something . . . all you have to say is, ''Thank you.''

Sharing thoughts, beliefs, feelings and most of all mutual respect is what makes a relationship strong.

Saying ''No'' can be the best way to say, ''I love you.''

B. ''AIDS and sex: What you should know'' [Tennessee responds to AIDS, December 1992]

''What do I do?: First, understand it's okay to say 'No' to sex. Get to know the person better. Date. Don't be afraid to talk about your choices with your friends. Have respect for your body. This way, you can avoid HIV and problems like unplanned pregnancy and other sexually transmitted diseases like gonorrhea and syphilis.''

C. ''AIDS: What you should know'' [Tennessee responds to AIDS, July 1989]

''How can I protect myself . . . The only way to be absolutely safe is to avoid all drug needles and not have sex until you are in a marriage or permanent relationship with a faithful, uninfected partner.

Until this is possible . . . Say 'No' to sex.''

''Remember: Alcohol and drugs make it harder to say no to dangerous behavior.''

D. ''AIDS and teens: What you should know'' [Tennessee responds to AIDS, June 1991]

''How do I protect myself? Don't have sex. Express your affection in other ways such as holding hands or hugging.''

''The safest way to protect yourself from becoming infected with HIV is by avoiding sex and drugs. Because this is your life and your body, you have a right to say NO. Remember, you can't tell by looking at someone if they are infected with the virus.''

''Remember the best protection against getting HIV is to avoid sex and drugs. Both drugs and alcohol will affect your judgment and you will be less likely to take steps to protect yourself.''

E. ''AIDS and the black community: What you should know'' [Tennessee responds to AIDS, June 1991]

''How do I avoid HIV?

Say 'No' to sex.

Alcohol and drugs make it harder to say no to dangerous behavior.''

F. ''A parents' guide to the facts: to help mothers and fathers talk to their teenagers about sexual responsibility'' [American College of Obstetrics and Gynecology (ACOG), 1986]

The facts: No. 1: Young people can postpone sex—

''Fact: Today's youngsters often have the impression that 'everyone is doing it.' Surveys show that more than half of all teenagers do indeed say 'no.' The 'everyone is doing it' comment is typical big talk by young people who want to make themselves look important in the eyes of their friends.''

''Let your children know that it's okay to say 'no.' There's nothing wrong with saying it. Even more important, there's no reason for your children to feel different or strange if they do say 'no'.''

''Because of pressure from their friends your children need guidance in knowing how to say 'no.' Explain to your children that the best way to say 'no' is to decide before they get into a situation that might force that decision.''

''Young people often worry about hurting friends' feelings if they say 'no.' Hurt feelings go away but an unintended pregnancy and a baby don't.''

''Wrapping up the facts: When parents can establish themselves as the best source of information on sex, the chances of misinformation are reduced. . . . When they (your children) have the Facts, you can help guide them in making the decisions that are best for them. They can say 'no' and postpone having sex. . . .''

G. ''A message for teens from teens'' [March of Dimes Birth Defects Foundation, November 1986]

''We all know how difficult peer pressure can be—people our own age telling us to do something that we don't really feel good about doing. We don't want to feel different. We don't want to feel left out. But there is such a thing as positive peer pressure. Our true friends wouldn't want us to do anything that would hurt us or get us into trouble.''

No one should try to rush you into anything. That's not the way to express your love for someone.''

''Guys take it less seriously because they're not the ones who get pregnant.''

H. ''Sexually transmitted diseases'' [March of Dimes Birth Defects Foundation, October 1986]

''Obviously, there is no risk of infection if there is no sexual contact.''

III. SUPPLEMENTAL TEACHING MATERIALS

A: Game: Crossroads—teen relationships and teen sexuality

1. Objective:

''The objective of CROSSROADS is to encourage sexual abstinence, goal-setting, parent-teen communications, strong moral values, self-control, responsibility, self-respect, and respect for others.''

''Sexual abstinence is important because it provides an opportunity to practice self-control, self-respect, respect for others and other important moral and religious values. It decreases the occurrence of teen pregnancy and sexually transmitted diseases and increases your opportunity to complete educational and vocational goals.''

''Teens should be very careful about the selection of their peers. They should choose friends and dates who value sexual abstinence and other positive moral standards.

2. Sample game cards[6]

a. ''If parents find out that their son or daughter is sexually active, they should discuss birth control because it is too late to discuss abstinence. True or False.

Answer: False . . . It is never to late too discuss abstinence.''

b. ''It is important for both males and females to keep their virginity because (a) it decreases the chances of getting sexually transmitted diseases (b) takes away the possibility of unwanted children (c) both a and b.

Answer: (c)''.

c. ''What is the best method a teen may use to keep from getting a sexually transmitted disease? (a) condoms (b) abstinence (c) frequent visits to the doctor.

Answer: (b)''.

d. ''Why do you think a male or female teen would choose to abstain from sex until marriage? Explain your answer.''

e. ''Which two methods can be used to control your sexual feelings? (a) maintain the value of abstinence (b) take a cold shower (c) don't deny your feelings, talk to your parents (d) ignore your feelings, they will go away

Answers: (a) and (c)''

f. ''What are the advantages for males and females who abstain from sex until marriage? (a) no advantages (b) they can set goals and achieve them through self-control (c) no children born before marriage'' Which statement was incorrect?

Answer: (a)''

g. ''What is sexual abstinence? Please explain your answer . . .

Answer: Sexual abstinence means to refrain from sexual activities, including the more advanced stages of petting and sexual intercourse.''

h. ''Can you truly love someone and abstain from premarital sex with that person? Yes or No?

Answer: Yes. Love is a strong affectionate bond that consists of respect, trust and commitment.''

B. Video: ''Who do you listen to? choosing sexual abstinence''

Note: There is no date on the invoice [which was enclosed in the video sent to the Committee.] A fax—apparently sent to the program from the video company—is dated 8–21–92.

''It gives them the facts and feelings teens must confront in order to take responsibility for their own sexual activity, and presents a healthy option for them to consider—sexual abstinence before marriage.''

Objectives: ''To help students: [. . .]

Explain the physical, emotional, and psychological risks of premarital sexual activity.

Make more responsible decisions about their sexual behavior.''

Discussion topics and activities: [. . .]

4. Psychological Risks: Consider the psychological risks involved in having sex before marriage, such as feelings of guilt, doubt, fear, disappointment and even the pain of being used. Why do these feelings often follow pre-marital sex? Could they possibly interfere with your ability to concentrate on other things, like building friendships, studying or working?

5. Physical Risks: Consider some of the physical risks involved in having sex . . .

6. Practicing Sexual Abstinence: Discuss the advantages and disadvantages of practicing sexual abstinence before marriage. List some concrete reasons for saying ''no'' to pre-marital sex that you have learned from the video . . . Why would it be a good idea to refrain from sexual activity, despite what your body can be saying to you? List four activities that can constructively channel your time and energy.

7. Saying No: What are the most common ways others might try to convince you that you should have sex? Practice avoiding the pressure to have pre-marital sex by coming up with reasons to say ''no''.

Suggestions for group leaders:

Share some adult pressures that you face, such as belonging to a certain club, going out for a drink when you'd rather not, etc. Tell a story illustrating an effective way that you have handled peer pressure, and ask your group to tell you about situations they have seen or been involved in having to do with peer pressure.

Encourage adolescents to talk to their parents, school counselors, health teachers or physicans . . . Offer a supportive environment for them to share the information they

find. Encouraging them to discuss these issues with their parents can help bridge any embarrassment they may feel regarding these intimate matters.''

C. Video: ''It only takes once''

The main theme of this video is abstinence, following a young woman—who has decided with her boyfriend not to be sexually active—through a variety of social settings. She speaks to a group of teens saying that it's possible to be a virgin and still be cool. [referenced in Family Life Module, p. 59]

D. AIDS poster: ''With AIDS around, gonorrhea, syphilis and herpes are fair warning''

Poster shows a STOP sign and at the bottom it says: ''You want to be risk-free from AIDS? Don't have sex. And as long as you aren't shooting drugs, you'll be fine. No worries about who's slept around, who's had blood tests, and whether your condoms are latex or not.''

IV. MEDICAL STUDENT HANDBOOK

As ''I Have A Future'' falls under the Department of Obstetrics and Gynecology at Meharry Medical College, medical residents and students often rotate through the programs's clinics. The IHAF staff prepared a handbook[8] to train residents before they begin their rotation. The handbook gives specific guidelines for providing counseling—stressing abstinence as the first and best option.

Discussion of questions on ''personal information form''.

''The following questions are sensitive and emotional and could take much more time than is available at the clinic. It is important to schedule a special session with the client to talk in more depth if necessary.'' [...]

''2. Have You Talked to Either of Your Parents About Coming Here?

''Determine teen's comfort level in talking with parents'' [...]

''Provide teen with 'Can I Tell My Parents?' brochure and encourage her to tell her parents in the future. Emphasize that parents can be a source of support for them. If they can't talk to them now, maybe they will be able to some time later. (Don't give up!) [...]

''4. Have you ever had sexual intercourse?

If yes, discuss how she made the decision to have sex and ask how often she has intercourse. If the teen felt pressure to have intercourse, let her know that she can stop if it doesn't seem right for her. You can say 'no' after saying 'yes'.

You shouldn't have sex: 1) just for another person or 2) to be like your friends. What you really want is most important. This is your decision. . . .

If no, discuss teen's feelings about her decision. Legitimize decision not to have sex . . .''

''15. The goal of this [sic] questions is to increase the client's realistic understanding of how a pregnancy would affect her life . . .

Have you thought about when you will be ready to have a baby? Deal with a pregnancy? When do you think you will be ready? Imagine for a moment that you were pregnant? How would you feel?

Discuss wide range of emotions involved in hearing news like this. What kind of reaction would she have? Who could she turn to for information and support? What options would she have?

Have she and boyfriend discussed possibility of pregnancy with sexual relationship?

How would pregnancy/parenthood affect their goals?

Possible role-play situation [unplanned pregnancy]

''Initial visit interview/counseling session.

Contraception and STD's (using protocol guidelines):

The manual lists a number of options for avoiding Sexually Transmitted Diseases—the first of which is ''abstinence.''

''Provide the following brochures for the teen to take with her:

AIDS Brochure.

What Every Teen Needs To Know.

Your Pelvic Exam—the 1st or 21st.

Can I tell my Parents?

The Facts [STDs].

NO and Other Methods of Birth Control''.

V. LISTEN TO TEENAGERS WHO ARE IN THE PROGRAM

''But if you let the youngsters tell it, there is less sexual activity among those in the program. Part of it is knowing they are not the only one deciding on abstinence. Part of it is having adults they can talk to openly. Part of it is realizing the repercussions of early sexual activity.'' [The Tennessean. 2/5/95]

Rhiannon Wilson:

''In 'I Have A Future' I have learned why it's best to abstain from sexual activities through a class called Family Life. With me being a young lady, this class and all the other very positive things we do has helped me realize that I truly do have a future and a bright one at that.'' [Personal Statement]

''Dr. Foster always tells us that abstinence is what should follow.'' [Testimony to Senate Committee]

Jason Gordon:

''The program stresses abstinence to the fullest extent, it is the major goal of the program.'' [Testimony to Senate Committee]

''The program taught him one thing most of all, [Jason Gordon, 18] said. 'I know I'm not ready to have a child.'' [New York Times, 2/11/95]

''I Have A Future tell inner-city youth that their futures can be more positive and more successful if they delay sex and pregnancy until they are adults and can handle the responsibilities of a family.'' [Statement at White House, 5/1/95]

''I know that I would not be where I am if I had gotten shot, gotten someone pregnant, or dropped out of school. That is what IHAF tells us—if we stay out of trouble, abstain from sex, and avoid drugs and alcohol, our futures can be anything we want. Having a child can limit us forever. Taking responsibility for our lives puts us in charge and lets us define our lives ourselves.'' [Statement at White House 5/1/95]

''It's a lot more than just delaying pregnancy and not having sex. It's a lot about responsibility, about having dreams, about having goals.'' [AP, 5/1/95]

Deanna Garrett:

''The 'I Have A Future' program tries to teach the teens that abstinence is the only way that we can put a stop to teen pregnancy, the spread of sexually transmitted diseases, and the transmission of the HIV virus.'' [Testimony to Senate Committee]

Gary Hicks:

''Dr. Foster is doing a good deal by teaching kids to wait before they have sex. He would rather the young kids not have sex at all, because they still have a lot of things to look forward to in life. The 'I Have A Future' program teaches you that you don't have to do what everyone else is doing.'' [Testimony to Senate Committee]

Terrell Carter:

Terrell Carter said the program has given him a new perspective on interaction between the sexes. ''I thought that having sex was part of everyday life. It showed me abstinence is cool . . .'' [The Commercial Appeal, 2/14/95]

Terrell Carter, 18, credits the program for teaching him that fathering a child is ''nothing to be proud of.'' He now has ''more respect for girls. They're not just sex objects.'' [USA Today, 2/9/95]

Charmaine Harris, 18, says that the program taught her skills she could use to resist pressure to have sex: ''Let's say you have a date, dancing, and things start getting hot. Are you going to be passive or stand up for what you believe in?'' [The Tennessean, 2/5/95]

''As a member of the 'I Have A Future' program, I have learned how to choose and make decisions that will have a positive effect on my life and benefit me as well as others around me. I learned that it is alright to be different because the only person I need to please is me.'' [Testimony to Senate Committee]

Tonya Rutledge:

Tonya Rutledge, 17, thinks that her life would be different if she hadn't been in the program. ''I think I would probably be like my other friends which have children or they're about to have a child. . . . .'' [USA Today, 2/9/95]

Amelia Turner:

''When I first moved to Nashville. . . I was confronted daily with negative influences such as pressure to have sex and use drugs and alcohol. Fortunately, people like Dr. Foster realized those kinds of pressures, and they did something about it. Joining 'I Have A Future' gave me a safe alternative to doing those negative things. It taught me how to resist the peer pressures in order to be the best person I can be by not letting others pull me down.'' [Statement at D.C. Arrival Event, 5/1/95]

''It kept me busy, I had friends trying to take me in the wrong direction,'' said Amelia Turner, 18, who joined the program when her family moved to Nashville five years ago. '[The program leaders] constantly stressed the importance of higher education . . . having a child is down the road.'' [The Commercial Appeal, 2/14/95]

''This would be a nice program to have in other cities,'' said Amelia Turner, who wants to major in both medicine and biomedical engineering. ''In the little town I came from, there is nothing to do, so you may go over to your boyfriend's house. This takes you away from that. You don't have time to do crazy things.'' [The Boston Globe, 2/10/95]

Eighteen year old Amelia Turner says that in her life she is under ''a lot of pressure'' to have sex. I have A Future counselors ''let us know that if you want to have sex, here's what you can use. But, the best sex is no sex.'' [USA Today, 2/9/95]

Floyd Stewart:

Floyd Stewart has been in the ''I have A Future'' program for 4 years and says that unfortunately most people ''don't know about how [Dr. Foster] preaches abstinence.'' [Testimony to Senate Committee]

Johnetta Nelson:

Johnetta Nelson, a student, believes that the program taught her many things. ''I chose to further my education, and I knew that if I was to become impregnated that it would probably hold me back. And I know that I want a lot of things out of life, so I figured that it's not the time. [CNN, 2/13/95]

''I owe a great deal of credit to ''I Have A Future'' for keeping me active and busy. The program helped me keep my focus on my future and kept me from straying away. It taught me that your education comes first and having children comes later.'' [Statement at D.C. Arrival Event, 5/1/95]

Melissa Hunter:

''Melissa Hunter . . . said [Dr. Foster's] brainchild gives her and her friends a choice they seldom had before. A few make it out of the projects and their teen-age years without a baby and the limitations that babies bring, purely on strength of character alone, she said. But it is hard. 'Here they keep you too busy to get into trouble.'" [The New York Times, 2/11/95]

Latara Gooch:

The ''I Have A Future'' program has ''taught me how to think of myself, and not let everyone think for me. It also has kept me from making a big mistake in my life. The mistake is having sex at an early age.'' [Personal Statement]

Tyreca Bowers:

''I have been in the 'I Have A Future' program for approximately 2 years. This program has helped me to prepare for the real world. It teaches me to be responsible.'' [Personal Statement]

FOOTNOTES

[1] Many of these quotes also appear in the final [September 1994] version of the Family Life Module.

[2] This pamphlet—produced by HHS in 1986—has been given to the Committee and is excerpted on pps. 10–11.

[3] Many of these quotes also appear in the final [October 1994] version of the Prosocial Skills Module.

[4] The new brochures Dr. Greene ordered in March 1995 were the first she had seen which a) showed African American role models; and b) had a message targeted specifically to teenage males. The publisher of the pamphlets said in a letter to Senator Dodd that ''I have long known Dr. Foster to be a strong advocate for abstinence . . . When these pamphlets were first published. . . I immediately requested my staff to send copies to his program because I knew they would be interested in seeing them. . . His program immediately purchased and began using them . . . reflection of their interest in keeping their program up to date. . .'' [May 5, 1995 letter from Journeyworks Publishing]

[5] This pamphlet is referenced in the September 1989 draft of the Family Life Education Module [Staff Manual] which was given to the Committee.

[6] These are only a small selection of the cards focusing on abstinence. Many more were given to the committee. The game also had cards addressing AIDS and STDs.

[7] The Committee has the only copy of this video so I was not able to quote directly.

[8] Final Report To Health Of The Public; Submitted by ''I Have A Future'', Department of Obstetrics & Gynecology, Meharry Medical College; October 1992.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, before contemplating today's bad news about the Federal debt, let us have another go, as the British put it, with our little pop quiz. Remember: one question, one answer.

The question: How many million dollars are in one trillion dollars? While you are arriving at an answer, bear in mind that it was the U.S. Congress that ran up the Federal debt that now exceeds $4.9 trillion.

To be exact, as of the close of business yesterday, Tuesday, June 20, the exact Federal debt—down to the penny—stood at $4,895,341,208,279.21. This means that, on a per capita basis, every man, woman, and child in America now owes $18,582.80.

Mr. President, back to the pop quiz: How many million in a trillion? There are a million million in a trillion.

TRIBUTE TO COL. LANNING RISHER

Mr. THURMOND. Mr. President, I rise to pay tribute to a man who is not only a dear friend, but someone who in the course of his life has done much to serve his State and Nation.

Col. Lanning Parsons Risher was born in 1931 to one of the most distinguished and well-known families in South Carolina. His father ran the well-respected Carlisle Military School in Bamberg and was recognized throughout the State for his stature as an educator.

Completing his preparatory studies at Carlisle, Colonel Risher felt comfortable in a military environment and decided to pursue his college education at The Citadel, a rigorous and demanding institution with a reputation for producing leaders. Upon his graduation from The Citadel, Lanning chose to serve his Nation in the military, earning a commission in the infantry of the U.S. Army.

After fulfilling his military obligation, Colonel Risher joined the teaching staff of his alma matter, the Carlisle Military School, where he taught for 3 years. In 1958 a new opportunity and challenge presented itself to the young instructor and veteran, the chance to serve as the headmaster of the Camden Military Academy, a preparatory military school. Grabbing the reins, the new headmaster set out to make the Camden Military Academy a success.

For the past 38 years, Col. Lanning Parsons Risher has poured his very life's blood into his school, working to not only make the academy profitable, but to ensure that his students received an education that could not be equaled by any other secondary military preparatory school. I am proud to say that my friend has achieved his goals. Over the past almost four decades, literally thousands of young boys entered Camden Military Academy and graduated as young men, capable and ready for the challenges of the military, college, or whatever other endeavor they believed to be their destiny.

Mr. President, at the end of April, Colonel Risher's long and distinguished tenure as headmaster came to a close. I doubt a visit to the school will ever be the same knowing that Colonel Risher is not sitting in his office, administering to the needs of his charges.

While I know that Lanning will no doubt miss the duties and responsibilities of running Camden Military Academy, he can take great pride in all that he has accomplished. Over the years, the colonel has received recognitions from a number of different groups. Committed to community service, Colonel Risher has served as a member and officer of an impressive list of organizations which include, but are not limited to: a bank; patriotic and veterans groups; civic clubs; and professional associations. There is no question that the city of Camden and the State of South Carolina have benefited from Lanning Risher's interest and commitment to so many worthwhile endeavors.

In addition to meeting the demands of running the academy and being civically involved, Colonel Risher also managed to find time to pursue and earn a master's degree from the University of South Carolina and raise a family. Lanning and his lovely wife, Deane, raised five daughters—Julie, Helen Dean, Virginia, Mary, and, Kathleen—who have all grown into fine young women.

Mr. President, after a long and full career as a soldier and educator, Col. Lanning P. Risher has earned a well deserved rest. We are grateful for the colonel's many years of service to his community, State, and Nation. Through his work, he has given thousands of young men the skills they require to be successful in their lives, instilling in them the values of a sound education, responsibility for themselves, and a love for their Nation. His former students are more than grateful for his influence on their lives, and they will always remember the contribution he made to their success.

A LEADER MOVES ON

Mr. LEAHY. Mr. President, Sister Janice Ryan recently announced that she will be giving up the presidency of Trinity College in Burlington next July after 17 years of service. I note this news with sadness, thanks and with hope.

I am sad because the kind of leadership Sister Janice embodies is found in so few people on this Earth. She has committed her life to improving the lot of others. She has been a tireless advocate for the disadvantaged. She has been an inspiring leader in the field of higher education in Vermont. She has been a stirring role model for the thousands of students at Trinity College, most of them young women, who have seen the power and force of a gifted educator and administrator.

Sister Janice has done all this with competence, a sense of humor and the grace that comes from a confidence grounded in logic, reason and faith.

When Sister Janice Ryan speaks, people listen. She does her homework. She is political in the best sense of the word. She understands the complexity of the decision making process, and knows how to work to change the system in ways that will further the interests of those in whose name she speaks.

Sister Janice is not retiring She is moving on to another chapter in her life, which I know will be as challenging and rewarding and fulfilling as the chapter that will soon close.

We need more people like Sister Janice Ryan everywhere. But we in Vermont are especially proud to have been graced by the presence of an exceptional native daughter of our Green Mountain State.

Mr. President, I ask unanimous consent to include a recent article and editorial about my good friend Sister Janice Ryan that appeared in the Burlington Free Press. My wife Marcelle, and I wish her Godspeed.

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

[From the Burlington (VT) Free Press, May 16, 1995]

RYAN TO RETIRE FROM TRINITY'S HELM

(By Molly Walsh)

After 17 years at the helm of Vermont's only women's college, Trinity College President Janice Ryan has announced she will leave the school in July 1996.

''For Trinity and for me it just feels like the right time,'' Ryan, a Roman Catholic nun, said Monday. ''We have truly as a college been blessed.''

Friends, trustees and nuns in The Sisters of Mercy, the order that founded Trinity and welcomed Ryan as a fresh-faced farm girl in 1954, praised her vision, determination and energy.

''We would have liked to convince her to stay here for another 17 years,'' said Christopher Weinheimer, Trinity board of trustees chairman and treasurer of Fletcher Allen Health Care. A national search for a successor is underway.

During Ryan's tenure, Trinity launched a successful ''weekend college'' degree program, three new masters programs and two major capital campaigns. It also established a model scholarship program to help low-income single parents receive an education.

It's the students, most of all, who make Ryan proud as she looks back.

''I've watched the young women over these 17 years and honest to goodness, their abilities never cease to amaze me,'' Ryan said.

Off campus, Ryan has served on dozens of boards and community service projects, taking a special interest in mentally retarded people of all ages and children with special needs.

Ryan is the kind of person who would always find a way to get un-stranded from the proverbial desert island, said Trinity trustee Joan Sylvester, who has known Ryan for 20-odd years.

No problem is too big for her.

''She's like the little Duracell battery that goes on and on,'' Sylvester said.

Ryan's resignation is not a surprise. Two years ago, she declined to sign a fourth five-year contract. Trustees persuaded her to stay at least through July 1996 to help oversee a $5 million capital campaign.

To date, $4.4 million has been raised and a $1.9 million reconstruction of Delehanty Hall, the college's primary teaching facility, begins today.

One of six children in an Irish-Catholic family, Ryan's early education in a one-room school house was followed by a bachelor's from Trinity and a masters at Boston University in 1967.

Ryan's polished, dressed-for-success image is a contrast to the nun who wore thick glasses with clunky, black frames and the traditional long, black habit in the 1960s while she taught at local parochial schools.

And far from the stereotype of a cloistered nun, Ryan is known as an engaging dinner partner and a skilled fund-raiser and networker.

Ryan sets a fine example of spirituality in action, said Sister Lindora Cabral, Trinity trustee and president of the Sisters of Mercy, Vermont Regional Community. ''To have people realize that we're part of today's world * * * that's a very important piece for us.''

Although she will always love Vermont, Ryan is interested in policy-making work on an international level. ''She will be missed,'' Cabral said. ''But whether she's in the area or not, Trinity will always be a piece of her heart.''

[From the Burlington (VT) Free Press, May 18, 1995]

MISSION STILL UNDONE

If Sister Janice Ryan doesn't eventually end up in a front-line public service job serving Vermont's disadvantaged, her resignation next year after 17 years as president of Trinity College in Burlington won't just be a loss to the school. It will be a missed opportunity for Vermont.

The time couldn't be better for an administrator of her caliber and an advocate for the needy with her energy to take a full turn in government service.

Examine the list of citizens likely to suffer the most from federal budget-cutbacks and cost-shifts to states, and it reads like a Who's Who of people Sister Janice has helped before and during her time at Vermont's last remaining women's-only college. Among them: the under-educated and physically and mentally disadvantaged in particular; women in general.

Public-service opportunities ahead become even more obvious when you look at the enormous task Vermont state government now faces: implementing welfare reform (whose largest group is now poor, single women) while absorbing federal budget cuts; making affordable the same special education law Sister Janice helped pass in 1972, without undermining its equal-access intent; and, most important, defending the basic tenet of modern government now at risk of being forgotten—retaining a basic level of decency for the disadvantaged, not as a luxury but as a moral and social imperative.

In short, Sister Janice's quiet, behind-the-scenes work at both state and national levels on behalf of all such causes isn't just a legacy for Trinity, it's a job description for Vermont state government.

As for other women aspiring to leadership—whether within or outside religious life—there are other secrets to be found in Sister Janice's example and long tenure.

One: It isn't the loudest voice that wins; more often it's the most persuasive and persistent. Just ask any Vermont legislator who remembers the years of struggle by her and other women to gain equal access to public schools for Vermont's retarded and other mentally disadvantaged children. Or any Vermont bishop who's found her on his doorstep ready to discuss in private her views on controversial church matters.

It's also testimony to what can happen when the boss—in this case the Sisters of Mercy—says, both by design and action, that a religious woman's role is, in fact, ''out there,'' where the under-educated and the underprivileged live.

Nor is this more public life without the usual pitfalls. Sister Janice's predecessor at Trinity, Sister Elizabeth Candon, found the transition from religious life and academia a rocky one during her own pioneering tenure as human services secretary in the contentious '70s. Yet in that example is another lesson for any political leader today: that it takes more than good intentions to balance the fiercely competing interests of taxpayers and the needy; it also takes an unusually effective mix of political acuity and toughness.

While on one hand, education has long been one of the few traditional ways American culture has accepted female leaders, it's taken women like Sister Janice to take such leadership to a new, higher level through innovation and determination.

If the next few years produce the kind of budget restraints Congress is calling for—Vermont and small states like it are going to need all the persistent innovators like her they can get.

UNITED STATES-JAPAN AUTO NEGOTIATIONS

Mr. BAUCUS. Mr. President, I rise today to express my strong support for the President and Ambassador Kantor in their efforts to open Japan's auto and auto parts market.

In just 1 week, we are scheduled to impose sanctions on Japanese luxury cars. That is a last resort. I hope in these last few days Japan's auto companies will show themselves willing to accept a reasonable agreement. But if not, we will have no choice.

STATUS OF UNITED STATES-JAPANESE TRADE

Japan has always had a good public relations operation. They have done their best to present themselves as the victim in this issue. So before we look at the details of the auto issue, let us look at the big facts.

For decades now, American business has met a Japanese market closed in all sorts of sectors. We have negotiated over semiconductors, glass, insurance, apples, oranges, medical equipment, supercomputers, wood products, beef, and more.

In all these areas we had some success. Japan is now our largest beef market. We have sold a few supercomputers. The detail work has helped. But we are still far away from open trade with Japan. The statistics tell the story. Let me include them for the RECORD.

[In billions of dollars]

	Exports to Japan	Imports from Japan
1990	48.6	89.7
1991	48.1	91.5
1992	47.8	97.4
1993	47.9	107.3
1994	53.5	119.1

To sum it up, since 1990 Japan's exports to the United States have grown from $89.7 billion to $119.1 billion—an average of $7.35 billion per year. Our exports to Japan, by contrast, did not grow by a penny between 1990 and 1993. In fact they shrank. Only in 1994 did we improve at all.

So let us put all the complaints and talk of protectionism from Japan aside. They are doing fine. If there was protectionism here, their exports would not have grown by $12 billion last year. And just today, figures came out showing that in April, Japan sold us a record $2.4 billion worth of cars. The problem is Japan's closed market.

THE FRAMEWORK NEGOTIATIONS

And that is what we began to address in 1993, in the so-called framework talks. These had three main baskets, as follows:

The United States agreed to cut its budget deficit.

Japan agreed to macroeconomic reforms—deregulation in particular—to reduce its worldwide current account surplus.

And both agreed on talks covering several specific sectors of the Japanese market: Insurance, telecommunications, patent law, medical equipment, and autos and auto parts.

Two years later, we have kept our part of the bargain. We have reduced the deficit by $500 billion over the 1993–98 budget years, and we are on track to do even more this year.

In the second basket, Japan has made some halting steps toward deregulation. At least in part because of those steps, Japan's economy began to recover last year and we had a relatively good exporting year.

And in the third basket, we have agreements on medical equipment, telecommunications, insurance, patent laws, and flat glass. But autos and auto parts remain unsolved. Japan has resisted all efforts at a deal. And that is why we have a deadline next week.

JAPAN'S CLOSED AUTO SECTOR

Let us now take a closer look at this issue. Autos and auto parts account for close to two-thirds of our total trade imbalance with Japan. And the reason is that our auto and parts companies simply do not have a fair deal in Japan. A coalition of big companies and economic bureaucrats make sure Japanese dealers do not carry foreign products. And the effects are clear if we review some statistics.

In all the OECD countries but Japan, American auto parts average a 20.4-percent market share. Our share of Japan's auto parts market is 2.4 percent.

And in 1994, the world as a whole was able to export only 300,000 vehicles to Japan, where 6.5 million vehicles were sold.

This is a result of a deliberate policy to reserve Japan's auto market for domestic production. It began in the 1950's, when between 1953 and 1960 the United States share of Japan's auto markets fell from 60 to 0 percent. That is right. Zero.

It continues today, 40 years later. In 1993, for example, Japan's Fair Trade Commission found that 47 percent of Japanese dealers think they are prohibited from handling competing products, or worry their current supplier would retaliate if they sold those products.

AUTOS AND THE U.S. ECONOMY

This is a critical issue for the American economy. Our automobile industry makes up 4.6 percent of America's GDP. It is our largest manufacturing employer, employing 2.3 million Americans. And it is one of the world's most efficient and productive industries.

Since 1990, the auto industry has spent $58.3 billion on new plants and equipment. Its R&D spending stands at $44 billion, behind only our computer industry. Cars like the Chrysler Neon, GM's Saturn or the Ford Probe show that this investment has paid off in cars that are the world's standard for quality. There is no reason they cannot sell in Japan.

And these talks affect more than the automobile industry and its parts suppliers. They are critical for electronics, semiconductors, steel, chemicals, aluminum, machine tools and more.

Let me give you one example. When you think about autos, you do not often think about Montana. But you should. Because the auto industry is the aluminum industry's second largest market, and aluminum is a critical Montana industry.

An average vehicle contains about 200 pounds of aluminum. So in 1993, the aluminum industry shipped about 4.2 billion pounds of aluminum to the transportation market. And if American autos sell in Japan, we open a new export market for American aluminum and reduce some of the chronic oversupply on our domestic market.

So these talks are important not just in Washington, Detroit, and Tokyo, but in the Flathead Valley.

CONCLUSION

We should also remember that a good deal is good for Japan, too. Japanese citizens want cheaper cars. And Japanese surveys show a majority of Japanese dealers want to sell imported cars. If we reach a good agreement this week, both countries will benefit. The time to settle this is now.

Finally, I have said before that the ultimate solution to our trade problems with Japan lies not in trade policy, but in Japan's domestic regulatory and antimonopoly policies.

Broad reform of these areas would solve many problems which now appear to us as sectoral trade barriers. It would remove much of the tension which has pervaded our trade relationship over the past 20 years. And it would be in the fundamental interest of Japan's consumers and domestic economic growth as well.

As Singapore's Senior Minister Lee Kuan Yew said last May:

> If Japan re-examines its past strategy, its leaders must recognise that conditions have changed so fundamentally that they have to break the mold of the last 50 year. That strategy, which was designed to maximize exports and minimize imports, will not limit Japan's role and damage its growth.

That is a long-term choice, and it is ultimately up to Japan. Until Japan's political leaders, business elite and—most of all—economic bureaucrats accept the choice, we will have to be firm, and autos are no exception. We have made fair offers, and there is no reason Japan cannot accept them. So let us stand behind the President and Ambassador Kantor, and get the job done.

TRIBUTE TO HERBERT P. COLE, JR.

Mr. HEFLIN. Mr. President, I rise today to pay tribute to Herbert P. Cole, Jr., a great Alabamian and American who recently passed away in his hometown of Mobile, AL.

Herb was born in Mobile on January 8, 1919, in an antebellum home known as Oakleigh, which is now a symbol of Mobile and the South. He began his education at the University Military School and then graduated from the Lawrenceville School in Lawrenceville, NJ, in 1938. That fall he entered Princeton University. The dark clouds of World War II were plainly visible and influenced his studies at Princeton. Deciding that America's entry in the war was only a matter of time, he learned to fly and joined the civilian pilot training program. In his senior thesis, he combined his love for flying with his major, economics. He concluded that America's aircraft industry could never gear up in time to be a factor in the war.

Upon graduation in June 1942, he set out to prove his conclusion wrong. He immediately joined the Navy as an aviation cadet. He found primary training in Pensacola to be relatively easy since he had logged more hours than his instructor had and, in fact, gave his instructor several pointers. Following carrier qualification in the Great Lakes, he accepted a commission in the U.S. Marine Corps. When asked why he chose the Marines over the Navy, he would explain that the scuttlebutt was that the Navy pilots would be kept State-side to serve as instructors but the Marine aviators would be sent overseas. As was typical of him, he was eager to get the job done and thus joined the Marines.

Once overseas, he was assigned to VMSB–341, the Flying Turtles, and flew the SDB Dauntless dive bomber. His missions included strikes against enemy ships and ground support against enemy forces on Rabaul and Guadalcanal, included missions to locate and destroy the infamous ''Pistol Pete'' artillery piece. He earned the Air Medal for his actions in World War II.

Following the war, he returned to Mobile. In 1948, he married Valery Converse. He began his career in industrial sales with the Ruberoid Co., now known as GAF. Ruberoid moved Herb and his growing family around the South, first to Americus, GA, then to Jacksonville, FL, and finally back to Mobile. When Ruberoid threatened to move him again, this time somewhere up North, he quit. He had decided that no where in the world were there any people as fine as the ones he knew in Alabama. He then joined BLP Mobile Paint Co. as a salesman. He eventually became vice president for sales.

Herb Cole was not all work, though; he found time to enjoy his family and life. Rather than say goodbye, he would often leave his family with the admonition, ''enjoy.'' Like many southerners, he was a sportsman. He enjoyed sailing, hunting, fishing, and supporting the Crimson Tide of Alabama and the Tigers of Princeton. His greatest sports interest, though, was golf. He was an avid golfer all of his life and shot five holes-in-one, including one when he was in his seventies.

In 1975, he took an early retirement from BLP Mobile Paint Co. Although he dabbled in real estate and other business ventures at this time, he saw retirement as a time to continue to give to the community. He served on the vestry at St. Paul's Episcopal Church in Mobile, on the board at the YMCA, and as a local representative for Princeton.

Probably Herbert's most memorable qualities were his deeply held Christian beliefs and his love for St. Paul's Church. The only place Herbert could

be found on Sunday mornings would be on the fourth pew from the rear in the chapel at St. Paul's Church, along with his wife and four children.

In sum, Mr. President, any measure of a man one could take, Herbert Cole met. He was intelligent, articulate, a loving and loved husband and father, a war hero, a successful businessman, and a devout Christian. My colleagues and I send our condolences to ''Miss Valery,'' their 4 children and 10 grandchildren. To Herbert Cole, I say ''Semper Fidelis.''

U.S. SENATE PAGES, SPRING 1995

Mr. KEMPTHORNE. Mr. President, I would like to pay tribute today to 24 outstanding young Americans. The U.S. Senate pages, Spring Class of 1995, have been an exceptional group of motivated and enthusiastic young assistants. I have enjoyed working with them, and I appreciate all of their hard work.

I recently had the honor of attending the traditional tree planting ceremony in recognition of the Spring Class of 1995. It was quite a priviledge to be included in such a memorable event.

With such a fine group of young adults, I feel the future of the United States will be in good hands.

It is with great pleasure that I recognize the hard work of these fine Senate pages: Bethany Atkins, Jessie Baker, Toby Bendor, Casey Chamberlain, April Cunningham, Robby Fairchild, Brent Faught, Dan Flicker, Amy Jerominek, Lara Kemp, Justin Marceau, Hillary Maxwell, Dora McCann, Aaron McClung, Matthew McMillan, David Myers, Ryan Offut, Owen O'Leary, Gordon Parker, Chris Pandelis, James Pfadenhauer, Sarah Saucedo, Jared Smith, Jennifer Van Doorn.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:39 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1817. An act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes.

The message also announced that pursuant to the provisions of section 204(a) of the Older Americans Act of 1965 (42 U.S.C. 3015(a)), as amended by section 205 of Public Law 102–375, the Speaker appoints Mr. Charles W. Kane of Stuart, Florida, from private life, to the Federal Council on the Aging on the part of the House for a 3-year term, to fill the existing vacancy thereon.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1817. An act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes; to the Committee on Appropriations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1037. A communication from Secretary of the Treasury, transmitting, pursuant to law, the report on the public debt for fiscal year 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–1038. A communication from the Deputy and Acting Chief Executive Officer of the Resolution Trust Corporation, transmitting, pursuant to law, the comprehensive litigation report for the period October 1, 1994 through March 31, 1995; to the Committee on Banking, Housing, and Urban Affairs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

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

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be general

Gen. Carl E. Mundy, Jr., 000–00–0000, U.S. Marine Corps.

The following-named officer for reappointment to the grade of general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Gen. James L. Jamerson, 000–00–0000, U.S. Air Force.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Kenneth R. Wykle, 000–00–0000, U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Hubert G. Smith, 000–00–0000, U.S. Army.

The following-named officer for appointment to the grade of lieutenant general in the U.S. Marine Corps while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Paul K. Van Riper, 000–00–0000.

The following-named officer for reappointment to the grade of lieutenant general in the U.S. Marine Corps while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Charles E. Wilhelm, 000–00–0000.

The following-named captains in the staff corps of the Navy for promotion to the permanent grade of rear admiral (lower half), pursuant to title 10, United States Code, section 624, subject to qualifications therefore as provided by law:

MEDICAL CORPS

To be rear admiral (lower half)

Capt. Michael Lynn Cowan, 000–00–0000, U.S. Navy.

SUPPLY CORPS

To be rear admiral

Capt. Raymond Aubrey Archer III, 000–00–0000, U.S. Navy.

Capt. Justin Daniel McCarthy, 000–00–0000, U.S. Navy.

Capt. Paul Oscar Soderberg, 000–00–0000, U.S. Navy. civil engineer corps

To be rear admiral (lower half)

Capt. Robert Lewis Moeller, 000–00–0000, U.S. Navy.

Capt. Michael William Shelton, 000–00–0000, U.S. Navy.

MEDICAL SERVICE CORPS

To be rear admiral (lower half)

Capt. Harold Edward Phillips, 000–00–0000, U.S. Navy.

The following-named rear admirals (lower half) in the line of the U.S. Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefore as provided by law:

UNRESTRICTED LINE OFFICER

To be rear admiral

Rear Adm. (1h) Charles Stevens Abbot, 000–00–0000, U.S. Navy.

Rear Adm. (1h) Michael Lee Bowman, 000–00–0000, U.S. Navy.

Rear Adm. (1h) Frank Matthew Dirren, Jr., 000–00–0000, U.S. Navy.

Rear Adm. (1h) Marsha Johnson Evans, 000–00–0000, U.S. Navy.

Rear Adm. (1h) Henry Collins Giffen III, 000–00–0000, U.S. Navy.

Rear Adm. (1h) Lee Fredric Gunn, 000–00–0000, U.S. Navy.

Rear Adm. (1h) Michael Donald Haskins, 000–00–0000, U.S. Navy.

Rear Adm. (1h) Henry Francis Herrera, 000–00–0000, U.S. Navy.

Rear Adm. (1h) Francis William Lacroix, 000–00–0000, U.S. Navy.

Rear Adm. (1h) Thomas Fletcher Marfiak, 000–00–0000, U.S. Navy.

Rear Adm. (1h) Richard Willard Mies, 000–00–0000, U.S. Navy.

Rear Adm. (1h) Robert Joseph Natter, 000–00–0000, U.S. Navy.

Rear Adm. (1h) Robert Michael Nutwell, 000–00–0000, U.S. Navy.

Rear Adm. (1h) James Gregory Prout III, 000–00–0000, U.S. Navy.

Rear Adm. (1h) James Reynolds Stark, 000–00–0000, U.S. Navy.

Rear Adm. (1h) Robert Sutton, 000–00–0000, U.S. Navy.

Rear Adm. (1h) Jay Bradford Yakeley III, 000–00–0000, U.S. Navy.

ENGINEERING DUTY OFFICER

To be rear admiral

Rear Adm. (1h) Paul Matthew Robinson, 000–00–0000, U.S. Navy.

The following U.S. Army National Guard officers for promotion in the Reserve of the Army to the grades indicated under title 10, United States Code, sections 3385, 3392 and 12203(a):

To be major general

Brig. Gen. Crayton M. Bowen, 000–00–0000.
Brig. Gen. James D. Davis, 000–00–0000.
Brig. Gen. Robert J. Mitchell, 000–00–0000.
Brig. Gen. John E. Prendergast, 000–00–0000.
Brig. Gen. Robert E. Schulte, 000–00–0000.
Brig. Gen. Walter L. Stewart, Jr., 000–00–0000.
Brig. Gen. Carroll Thackston, 000–00–0000.

To be brigadier general

Col. Lance A. Talmage, Sr., 000–00–0000.
Col. Robert A. Morgan, 000–00–0000.
Col. John E. Blair, 000–00–0000.
Col. Phillip O. Peay, 000–00–0000.
Col. Robert D. Whitworth, 000–00–0000.
Col. Ronald W. Henry, 000–00–0000.
Col. Vandiver H. Carter, 000–00–0000.
Col. Troy B. Oliver, 000–00–0000.
Col. Don C. Morrow, 000–00–0000.
Col. Smythe J. Williams, 000–00–0000.
Col. William W. Austin, 000–00–0000.
Col. Jean A. Romney, 000–00–0000.
Col. James T. Dunn, 000–00–0000.
Col. Paul T. Ott, 000–00–0000.
Col. Reid K. Beveridge, 000–00–0000.
Col. Bertus L. Sisco, 000–00–0000.
Col. Jim E. Morford, 000–00–0000.
Col. Willie A. Alexander, 000–00–0000.
Col. Steven P. Solomon, 000–00–0000.
Col. Jerry V. Grizzle, 000–00–0000.
Col. James V. Torgerson, 000–00–0000.

(The above nominations were reported with the recommendation that they be confirmed.)

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

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the RECORDS of March 23, April 24, May 11, 19, and 23, 1995, ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of March 23, April 24, May 11, 19, and 23, 1995, at the end of the Senate proceedings.)

*In the Navy there are 18 promotions to the grade of rear admiral (list begins with Charles Stevenson Abbot) (Reference No. 164).

*In the Navy there are 7 promotions to the grade of rear admiral (lower half) (list begins with Michael Lynn Cowan) (Reference No. 204).

**In the Navy there are 258 promotions to the grade of captain (list begins with Vincent J. Andrews) (Reference No. 278).

*Lt. Gen. Kenneth R. Wykle, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 288).

**In the Air Force there are 13 promotions to the grade of colonel (list begins with Danny N. Armstrong) (Reference No. 341).

*In the Navy there are 186 promotions to the grade of captain (list begins with Robert J. Adams) (Reference No. 344).

**In the Navy there are 621 promotions to the grade of commander (list begins with Milton D. Abner) (Reference No. 384).

*Maj. Gen. Paul K. Van Riper, USMC to be lieutenant general (Reference No. 388).

*Lt. Gen. Charles E. Wilhelm, USMC for reappointment to the grade of lieutenant general (Reference No. 389).

*Gen. James L. Jamerson, USAF for reappointment to the grade of general (Reference No. 394).

*Maj. Gen. Hubert G. Smith, USA to be lieutenant general (Reference No. 395).

*In the Army Reserve there are 28 promotions to the grade of major general and below (list begins with Crayton M. Bowen) (Reference No. 396).

**In the Army Reserve there are 34 promotions to the grade of colonel and below (list begins with Richard F. Anderson) (Reference No. 397).

**In the Army Reserve there are 43 promotions to the grade of colonel and below (list begins with Ronald C. Bredlow) (Reference No. 398).

**In the Army there are 35 promotions to the grade of lieutenant colonel (list begins with James E. Agnew) (Reference No. 399).

**In the Navy there are 265 appointments to the grade of lieutenant (list begins with Camilo L. Abalos) (Reference No. 400).

**In the Army there are 295 promotions to the grade of major (list begins with Robert T. Aarhus) (Reference No. 401).

**In the Air Force Reserve there are 27 promotions to the grade of lieutenant colonel (list begins with William M. Altman III) (Reference No. 403).

**In the Army there is 1 promotion to the grade of lieutenant colonel (list begins with Robert G. Kowalski) (Reference No. 404).

**In the Army there are 7 promotions to the grade of lieutenant colonel and below (list begins with Joseph F. Miller) (Reference No. 405).

**In the Navy there are 1,062 appointments to the grade of lieutenant commander and below (list begins with Carlton L. Jones) (Reference No. 407).

*Gen. Carl E. Mundy, Jr., USMC to be placed on the retired list in the grade of general (Reference No. 420).

Total: 2,906.

By Mr. SPECTER, from the Select Committee on Intelligence:

George J. Tenet, of Maryland, to be Deputy Director of Central Intelligence.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources:

Clifford Gregory Stewart, of New Jersey, to be General Counsel of the Equal Employment Opportunity Commission for a term of 4 years.

John D. Kemp, of the District of Columbia, to be a Member of the National Council on Disability for a term expiring September 17, 1997.

Edmundo A. Gonzales, of Colorado, to be Chief Financial Officer, Department of Labor.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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 Mrs. HUTCHISON:

S. 951. A bill to commemorate the service of First Ladies Jacqueline Kennedy and Patricia Nixon to improving and maintaining the Executive Residence of the President and to authorize grants to the White House Endowment Fund in their memory to continue their work; to the Committee on Energy and Natural Resources.

By Mr. LIEBERMAN:

S. 952. A bill to prohibit the taking of certain lands by the United States in trust for economically self-sufficient Indian tribes for commercial and gaming purposes, and for other purposes; to the Committee on Indian Affairs.

By Mr. CHAFEE (for himself, Ms. MOSELEY-BRAUN, Mr. SIMON, Mr. CAMPBELL, Mr. THOMPSON, and Mr. PELL):

S. 953. A bill to require the Secretary of the Treasury to mint coins in commemoration of black revolutionary war patriots; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATFIELD (for himself and Mr. MOYNIHAN):

S. 954. A bill to authorize the Architect of the Capitol to establish a Capitol Visitor Center under the East Plaza of the United States Capitol, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. HELMS (for himself, Mr. LEAHY, and Mr. REID):

S. Res. 138. A resolution relating to the conflict in Kashmir; to the Committee on Foreign Relations.

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 139. A resolution to authorize the production of records by the Select Committee on Intelligence; considered and agreed to.

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 140. A resolution to authorize the production of records by the Select Committee on Intelligence; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON:

S. 951. A bill to commemorate the service of First Ladies Jacqueline Kennedy and Patricia Nixon to improving and maintaining the Executive Residence of the President and to authorize grants to the White House Endowment Fund in their memory to continue their work; to the Committee on Energy and Natural Resources.

THE WHITE HOUSE ENDOWMENT FUND MEMORIAL GRANT AUTHORIZATION ACT

• Mrs. HUTCHISON. Mr. President, throughout our history as a nation the White House has served as a public

symbol of the President and the Federal Government. During countless wars and national crises, we have looked to the White House for leadership.

The growth of our country, and the growth of its importance in the world, has caused the number of visitors and the demands on the Executive Residence of the President—the White House—to grow substantially. Over 1.5 million people visit the White House annually; it's the only Executive Residence in the world that is regularly open to the general public.

Eventually the burden of constant use and the neglect of our historical treasures left the White House in disrepair. Until recently the White House was not maintained as a public building suitable for exhibiting our heritage and culture to the public.

In 1961, First Lady Jacqueline Kennedy initiated the White House Historic Preservation Program. The program's goals were to restore the historic integrity of the public rooms of the White House; to establish a fine and decorative arts collection; and to establish the White House Historical Association to publish and distribute educational materials describing the White House and its history.

Later that decade First Lady Pat Nixon provided new leadership by overseeing the most extensive acquisition of fine and decorative arts in the history of the White House. Her plan for refurbishment of the public rooms remains intact after more than 20 years.

The fine and decorative arts donated to the White House during the leadership of Mrs. Kennedy and Mrs. Nixon, valued today at tens of millions of dollars, far exceed those received during all other modern Presidential administrations combined.

With over 1.5 million visitors annually, the Executive Residence's public rooms need constant care and complete refurbishing every 8 to 10 years. To maintain the collection of fine arts, historic pieces must be acquired, loaned works must be acquired, reproductions need to be replaced, and repairs need to be made.

First Lady Barbara Bush established the White House Endowment Fund in 1990 to create a permanent endowment of $25,000,000 to maintain the public rooms and collection of the White House. Although substantial contributions have been received from the public, additional funds are needed to complete the endowment.

Over the past 2 years we have lost Jacqueline Kennedy and Patricia Nixon, who were among the finest First Ladies that have served our country. In recognition of their service in preserving and improving the White House, and in their memory following their recent deaths, today I am introducing legislation to authorize a memorial grant to the White House Endowment Fund to continue preservation activities at the White House.

First Ladies Jacqueline Kennedy and Patricia Nixon devoted much of their service to preserving and improving the White House. They made it a national showplace of American history, fine arts, and decorative arts. Bestowing this honor on Mrs. Kennedy and Mrs. Nixon would be in accord with the well-established congressional precedent by which a grateful nation recognizes noteworthy and enduring contributions to the public interest with memorial gifts. I hope all Senators will join me in recognizing their work and in preserving it for the future by supporting this bill.●

By Mr. LIEBERMAN:

S. 952. A bill to prohibit the taking of certain lands by the United States in trust for economically self-sufficient Indian tribes for commercial and gaming purposes, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN TRUST LANDS REFORM ACT OF 1995

● Mr. LIEBERMAN. Mr. President, I am introducing legislation today to return some common sense to one aspect of the Federal Government's policies regarding Indian lands. My bill, the Indian Trust Lands Reform Act of 1995, arises out of a problem we have been struggling with in Connecticut for the last couple years, but which, given the explosive growth in Indian gaming, other States will soon likely face as well.

The bill would amend the Indian Reorganization Act of 1934 to reinforce its original purpose—helping Indian tribes and individual Indians hold on to or obtain land they need to survive economically and ultimately support themselves. Congress passed the 1934 act after the landholdings of some tribes had dwindled down to acres. Tribes and their members were selling and losing land to foreclosures, tax arrearages, and the like.

The 1934 act gave the Secretary of the Interior the authority needed to help tribes hold on to or acquire land on which they could earn a living and, further, to hold those lands in trust for them so they would not be sold or otherwise lost. Once land is taken in trust by the United States for a tribe through this process, it becomes part of the tribe's sovereign lands and is no longer within the jurisdiction of State or local governments or subject to taxation or zoning controls.

The 1934 act specifically provides the Secretary of the Interior with the authority, ''in his discretion, to acquire, through purchase, relinquishment, gift, exchange, or assignment, any interest in lands * * * for the purpose of providing land for Indians.'' The legislative history of the 1934 act and that specific provision makes clear that Congress' purpose was ''to provide for the acquisition, through purchase, of land for Indians, now landless, who are anxious to make a living on such land. * * *'' and ''to meet the needs of landless Indians and of Indian individuals whose landholdings are insufficient for self-support.'' Senate Report No. 1080, 73d Congress, 2d Session 1–2 (1934).

Economic conditions for most tribes have improved since 1934 through a variety of commercial, agricultural, and other enterprises, but many are still struggling. Few could be described as rich or even comfortable; far too many still live in poverty. The 1934 act should be available to help those tribes who still need assistance from the Federal Government in attaining economic self-sufficiency.

Since the passage of the Indian Gaming Regulatory Act in 1988, of course, many tribes have established casinos and gambling operations. Some have been very successful, others less so. One of the most successful gambling casinos in the country is located in eastern Connecticut and is owned and operated by the Mashantucket Pequot Tribe. The success of the tribe's Foxwoods Casino has been well-chronicled. Established in 1992, the casino has been open 24-hours-a-day, 7-days-a-week every since. Whatever one thinks about the Indian Gaming Regulatory Act or gambling, either morally or as a vehicle for economic growth, the Mashantucket Pequots seized the opportunity presented to them by the Indian Gaming Act. They have developed an extraordinarily successful, well-run casino in record time. In 1994, annual casino revenues for the 300-member tribe were said to exceed $800 million. By any measure, the tribe has become very wealthy.

Given the tribe's financial success, it is not at all surprising that it has chosen to use some of those gambling revenues to buy more land near its reservation in order to expand upon its success. According to press accounts, the tribe owns over 3,500 acres outside of the boundaries of the reservation, in addition to the 1,229 acres that is held in trust on its behalf within the reservation, and is now the largest private landowner in southeastern Connecticut. Tribal leaders have at various times talked of building a massive theme park, golf courses, and hotels on the land it owns outside the reservation. The tribe owns that land in fee simple, like any other property owner and so is free to develop it like any other property owner might.

Nevertheless, the tribe has chosen to apply to the Department of the Interior under the 1934 act to have some of that land taken in trust on their behalf. The 1934 act is on the books and available, with limitations, to all federally recognized tribes. The benefits are enormous—tax-free land that is not subject to any State or local zoning or land-use laws.

Their efforts have paid off. In 1992, 27 acres in the neighboring towns of Ledyard and Preston were taken into trust by the Department of Interior for the tribe at its request. In January 1993, the tribe filed an application to have an additional 248 taken in trust. The legal and policy justifications for that request, as well as the earlier 1992

trust acquisition, were immediately challenged by the affected towns of Ledyard, North Stonington, and Preston. Nevertheless, that request was granted this May by the Department of Interior, subject to certain conditions regarding the land's development and pending resolution of lawsuits filed by the towns and the Connecticut attorney general. In March 1993, the tribe applied to have 1,200 more acres taken in trust. That request was denied because of legal deficiencies in the application. Reapplication by the tribe is possible. Past statements by tribal leaders suggest that more applications may be filed.

The effect of these decisions—by the tribe and the Department of the Interior—has been unsettling, to say the least, on the tribe's neighbors—the residents of the small towns that border the reservation. Once the United States takes land into trust on behalf of a tribe, as it has done here, boundaries change permanently. That land is no longer within the jurisdiction of the State or local governments. It is not subject to local zoning, land-use or environmental controls. Taxes cannot be collected on the land or on any business operated on the land. And State and local governments may exercise no police powers on the land unless invited by the tribe to do so.

Given the vast financial resources of the tribe and the apparent willingness of the Department of Interior to take land into trust on their behalf regardless of any evidence that the tribe needs additional trust lands, many residents in the tribes wonder, as do I, where this will all end. I simply do not see any policy justification for the United States to change the boundaries of three Connecticut towns unilaterally so that an extraordinarily wealthy tribe—this one or any other—can expand its gaming or other business enterprises, free of taxes and local land-use controls, particularly when that tribe is perfectly capable of expanding its businesses on the thousands of trust and nontrust land it presently owns. It strains credulity to think that Congress intended in 1934 that the law would be used in this fashion.

The authority for the Department of Interior to grant the tribe's request is now subject to review in the courts. The courts will have to decide whether the 1934 act even applies to this tribe and, if so, whether the Secretary acted properly. The courts will have to decide as well whether the 1983 Mashantucket Pequot Settlement Act independently prohibits trust acquisition by the tribe outside of reservation boundaries.

To avoid future disputes and controversy, my bill would amend the Indian Reorganization Act to return to its original purpose. It would prohibit the Secretary of Interior from taking any lands located outside of the boundaries of an Indian reservation in trust on behalf of an economically self-sufficient Indian tribe, if those lands are to be used for gaming or any other commercial purpose. It directs the Secretary of Interior to determine, after providing opportunity for public comment, whether a tribe is economically self-sufficient and to develop regulations setting forth the criteria for making that determination generally. Among the criteria that the Secretary must include in those regulations to assess economic self-sufficiency are the income of the tribe, as allocated among members and compared to the per capita income of citizens of the United States, as well as the role that the lands at issue will play in the tribe's efforts to achieve economic self-sufficiency.

My bill does not affect the ability of the Secretary to assist tribes that genuinely need additional land in order to move toward or attain economic self-sufficiency. Moreover, the bill contains explicit exemptions for the establishment of initial reservations for Indian tribes, whether accomplished through recognition by the Department of Interior or by an act of Congress, and in circumstances where tribes once recognized by the Federal Government are restored to recognition.

Mr. President, many residents of Connecticut applaud the success that the Mashantucket Pequot Tribe has had with its Foxwoods Casino. The tribe employs thousands of Connecticut residents in an area of the State that was hard-hit by a lingering recession and cuts in defense spending. The tribe's plans for economic development of the region, while not universally liked, have many in the area genuinely excited about future opportunities.

I have discovered though that even among residents cheered by the tribe's success and supportive of its plans, there is a strong sense of unfairness about how the ''land in trust'' process is being used. They believe there is absolutely no reason why this tribe, or any other in a similar situation, needs to have the U.S. Government take additional, essentially commercial land in trust on the tribe's behalf outside of its reservation boundaries. What is at stake here, afterall, is not preserving a culture or achieving self-sufficiency, but expansion of an already successful business on lands which are owned by the tribe and developable by them, as they would be by any other landowner. Extra help is simply not needed, and continuing to grant it is unjust and, in my view, ultimately counterproductive for all involved.

It is time for Congress to make this common sense clarification in the law. I urge my colleagues to join me in supporting this legislation, and ask unanimous consent that the text of the bill appear in the RECORD.

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

S. 952

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 ''Indian Trust Lands Reform Act of 1995''.

SEC. 2. PROHIBITION AGAINST TAKING CERTAIN LANDS IN TRUST FOR AN INDIAN TRIBE.

Section 5 of the Act of June 18, 1934 (commonly known as the ''Indian Reorganization Act of 1934'') (48 Stat 935; 25 U.S.C. 465) is amended—

(1) in the first undesignated paragraph, by striking ''The Secretary of the Interior'' and inserting ''Except as provided in the following paragraph, the Secretary of the Interior''; and

(2) by inserting after the first undesignated paragraph the following new undesignated paragraphs:

''Except with respect to lands described in the following paragraph, the Secretary of the Interior may not take, in the name of the United States in trust for use for any commercial purpose (including gaming, as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)) by an economically self-sufficient Indian tribe, any land that is located outside of the reservation of that Indian tribe as of the date of enactment of the Indian Trust Lands Reform Act of 1995. The Secretary of the Interior shall, after providing notice and an opportunity for public comment, determine whether an Indian tribe is economically self-sufficient for purposes of this paragraph. The Secretary of the Interior shall promulgate regulations pursuant to section 553 of title 5, United States Code, to prescribe the criteria that shall be used to determine the economic self-sufficiency of an Indian tribe under this paragraph. The criteria described in the preceding sentence shall include a comparison of the per capita allocation of the gross annual income of an Indian tribe (including the income of all tribal enterprises of the tribe) among members of the tribe with the per capita annual income of citizens of the United States, and shall include the potential contribution of the lands at issue as trust lands toward efforts of the tribe to achieve economic self-sufficiency.

''The immediately preceding paragraph shall not apply with respect to any lands that are taken by the Secretary of the Interior in the name of the United States in trust for the establishment of an initial reservation for an Indian tribe under applicable Federal law, including the establishment of an initial reservation by the Secretary of the Interior in accordance with an applicable procedure of acknowledgement of that Indian tribe, or as otherwise prescribed by an Act of Congress. Neither shall the immediately preceding paragraph apply to any lands restored to an Indian tribe as the result of the restoration of recognition of that Indian tribe by the Federal Government.''.●

By Mr. CHAFEE (for himself, Ms. MOSELEY-BRAUN, Mr. SIMON, Mr. CAMPBELL, Mr. THOMPSON, and Mr. PELL):

S. 953. A bill to require the Secretary of the Treasury to mint coins in commemoration of black Revolutionary War patriots; to the Committee on Banking, Housing, and Urban Affairs.

THE BLACK REVOLUTIONARY WAR PATRIOTS COMMEMORATIVE COIN ACT OF 1995

● Mr. CHAFEE. Mr. President, on behalf of myself and Senator MOSELEY-BRAUN, as well as Senators SIMON, CAMPBELL, PELL, and THOMPSON, I am introducing the black Revolutionary

War patriots commemorative coin legislation.

In 1986, Congress approved construction of a memorial celebrating the lives of more than 5,000 African-Americans who served, fought, and died during our Nation's Revolutionary War. Ironically, many of these brave Americans had never experienced the freedom and independence for which they fought.

As a Rhode Islander, it gives me particular pleasure to sponsor this legislation. As few Americans know, of the estimated 5,000 African-Americans who served in the Continental Army, the vast majority were from New England, and a great number were from my State of Rhode Island. In fact, in 1778, Rhode Island approved the first slave enlistment act and the Black Regiment of Rhode Island was formed. This was one of only two all black regiments. The other was the Bucks of America of Boston.

Not only did these men serve our Nation, they served with distinction. Regrettably throughout our history, their valor has been overlooked. Men like Jack Sisson of Rhode Island, who expertly steered one of five boats involved in the daring capture of British Maj. Gen. Richard Prescott at Newport in 1777, are barely mentioned in historical reports of the incident.

Jack Sisson went on to join a regiment of some 200 black soldiers from my State, who, at the battle of Rhode Island, held their ground against several fierce attacks by British-Hessian forces, thereby allowing six American brigades to retreat. With scant training, but abundant courage, the First Rhode Island Regiment inflicted casualties of six to one on the professional troops of the Redcoats.

Like African-American soldiers throughout the colonies, however, the soldiers of Rhode Island's First Regiment faced tragedy as well as triumph. In May 1781, the unit suffered a surprise attack by the British cavalry at Pines Bridge, and 40 soldiers lost their lives. Two years later, the regiment was disbanded unceremoniously in Oswego, NY. According to the historian John Harmon, the soldiers were told to find their own way home, and many died while making the trip. Further, despite the promise of freedom which had been made in order to entice them to enlist, some of the soldiers were actually reenslaved after their return.

Valor and fortitude in battle always are worthy of celebration, but they are especially inspiring when one takes into account the hostility and oppression that African-American soldiers faced from the Nation for which they fought. As Harriet Beecher Stowe observed,

> They served a nation which did not acknowledge them as citizens and equals. . . It was not for their own land they fought, but for a land that enslaved them. Bravery under such circumstances, has particular beauty and merit.

A portion of the proceeds from sales of the coin my legislation will authorize will help to pay for construction of the memorial. The Patriots Foundation already has raised $4 million for this purpose, and these additional funds are crucial if the memorial is to be completed.

The design for the black Revolutionary War patriots memorial has been approved. It will be a 90-foot-long, 7-foot high, curved bronze wall located some 300 feet from the Vietnam Memorial in Constitution Gardens between the Washington Monument and the Lincoln Memorial. Figures of black soldiers will be sculpted in high and low relief and a black granite arch will be inscribed with historical information.

NANCY JOHNSON has introduced companion legislation in the House of Representatives, and it is my hope that this proposal will receive speedy approval by both bodies.●

By Mr. HATFIELD (for himself and Mr. MOYNIHAN):

S. 954. A bill to authorize the Architect of the Capitol to establish a Capitol Visitor Center under the East Plaza of the United States Capitol, and for other purposes; to the Committee on Energy and Natural Resources.

THE CAPITOL VISITOR CENTER AUTHORIZATION ACT OF 1995

● Mr. HATFIELD. Mr. President, it is my great pleasure to introduce a bill that will make the U.S. Capitol more accessible to the American people. Over the past 200 years the U.S. Capitol has become more than a mere monument or museum. It is a living space, housing both Chambers of Congress, and hosting hundreds of thousands of visitors from across the globe annually. Today the U.S. Capitol Building stands as a symbol of our American ideals of liberty and freedom as much as it did on September 18, 1793, when President Washington laid the first stone into the ground.

Mr. President, the Capitol Visitor Center Authorization Act of 1995 upholds our Nation's original commitment to citizen involvement in government by providing Americans with enhanced opportunities to witness their government at work. Located under the East Plaza of the U.S. Capitol, this new addition would ease visitor access to the Capitol, allowing the ever-increasing number of visitors to enter more quickly and efficiently. Visitors will also be treated to informative displays about the Capitol as they proceed underground to enter the building. And anyone who has ever visited Washington, DC in the summer or winter will greatly appreciate the importance of providing visitors with relief from the elements.

In this period of scrutinizing government expenditures and balancing the budget, it is important to note that funding for the visitors center would come primarily from private gifts and donations. Contributions would be held in the U.S. Treasury under a separate account.

Mr. President, above all, this historic legislation should be enacted because it fulfills the intent of the U.S. Capitol Building by further opening it up to the American people. The visitors center would be an educational facility to be enjoyed for many years to come. It is my pleasure to introduce this important legislation and I thank the senior Senator from New York, Senator MOYNIHAN, for joining me as an original cosponsor.●

ADDITIONAL COSPONSORS

S. 240

At the request of Mr. DOMENICI, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 240, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act.

S. 643

At the request of Mr. JEFFORDS, the names of the Senator from California [Mrs. FEINSTEIN] and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 643, a bill to assist in implementing the plan of action adopted by the World Summit for Children.

S. 733

At the request of Mr. ROTH, the names of the Senator from Maine [Ms. SNOWE], the Senator from Rhode Island [Mr. PELL], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 733, a bill to amend title 23, United States Code, to permit States to use Federal highway funds for capital improvements to, and operating support for, intercity passenger rail service, and for other purposes.

S. 789

At the request of Mr. CHAFEE, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 789, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly traded stock to certain private foundations, and for other purposes.

S. 907

At the request of Mr. MURKOWSKI, the names of the Senator from Montana [Mr. BURNS], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of S. 907, a bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands and to withdraw lands within ski area permit boundaries from the operation of the mining and mineral leasing laws.

S. 917

At the request of Mr. STEVENS, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 917, a bill to facilitate small

business involvement in the regulatory development processes of the Environmental Protection Agency and the Occupational Safety and Health Administration, and for other purposes.

S. 939

At the request of Mr. SMITH, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 939, a bill to amend title 18, United States Code, to ban partial-birth abortions.

S. 940

At the request of Mr. LEAHY, the names of the Senator from Virginia [Mr. ROBB], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Indiana [Mr. LUGAR], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 940, a bill to support proposals to implement the United States goal of eventually eliminating antipersonnel landmines; to impose a moratorium on use of antipersonnel landmines except in limited circumstances; to provide for sanctions against foreign governments that export antipersonnel landmines, and for other purposes.

SENATE JOINT RESOLUTION 33

At the request of Mr. COCHRAN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 33, a resolution proposing an amendment to the Constitution of the United States relative to the free exercise of religion.

SENATE CONCURRENT RESOLUTION 11

At the request of Ms. SNOWE, the names of the Senator from Michigan [Mr. LEVIN], the Senator from California [Mrs. BOXER], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Senate Concurrent Resolution 11, a concurrent resolution supporting a resolution to the long-standing dispute regarding Cyprus.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

SENATE RESOLUTION 138—RELATIVE TO THE CONFLICT IN KASHMIR

Mr. HELMS (for himself, Mr. LEAHY, and Mr. REID) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 138

Whereas U.S. policy calls for a solution to the conflict in Kashmir through negotiations between India and Pakistan taking into account the wishes of the Kashmiri people to choose legitimate representatives to negotiate on their behalf;

Whereas India and Pakistan have fought two wars over Kashmir and tensions in the region remain high;

Whereas both India and Pakistan have nuclear weapons programs and possess sophisticated means to deliver such weapons;

Whereas reports indicate widespread human rights abuses in Kashmir, resulting from the excessive use of force by Indian military and paramilitary forces and acts of violence by Kashmiri militants;

Whereas the Indian parliament did not renew the Terrorists and Disruptive Activities Act, thereby improving prospects for the rule of law in Kashmir;

Whereas the All Parties Hurriyet (Freedom) Conference was organized to engage in negotiations with Indian and Pakistani authorities without precondition;

Whereas in January 1994 the United States Institute of Peace (USIP) brought together representatives from India, Pakistan and Kashmir to engage in a dialogue for peace;

Whereas the USIP concluded that, ''It is essential that people of Jammu and Kashmir be central participants in this political process, along with the governments and citizens of India and Pakistan.''

Whereas the recent destruction of the mosque and the razing of the town of Charar-i-Sharief in Kashmir have reinforced the urgent need for such a dialogue;

Resolved, That the Senate—

(1) condemns the use of excessive force by Indian military and paramilitary forces in Kashmir and similarly condemns acts of violence by Kashmiri militants;

(2) welcomes the release from detention of Kashmiri political leaders and urges that the government of India take further steps to respond to human rights concerns, including:

Prosecuting security personnel involved in abuses of human rights;

Permitting international human rights groups such as Amnesty International access to Kashmir; and

Permitting international humanitarian groups access to detention and interrogation centers in Kashmir;

(3) welcomes the expiration of the Terrorist and Disruptive Activities Act and urges the government of India to take further steps to safeguard the Kashmiri people's right to due process;

(4) welcomes steps taken by the government of Pakistan to reduce its support for Kashmiri militants, and urges the government of Pakistan to take further steps, including using its influence with private Pakistani sources, to stop the acts of intimidation and violence by Kashmiri militants;

(5) calls on the governments of India and Pakistan to enter into negotiations with legitimate representatives of the people of Jammu and Kashmir to resolve the conflict peacefully;

(6) urges the Administration to work to facilitate negotiations for a peaceful settlement of the conflict in Kashmir.

Mr. HELMS. Mr. President, I send a resolution to the desk for appropriate referral. It addresses the precarious situation growing out of two nuclear-armed nations facing each other on the South Asian subcontinent. During the past 50 years, the two nations have gone to war twice, and barely avoided doing so again in 1990.

The dispute over the State of Kashmir continues to fester, and India and Pakistan are nowhere near resolving their differences. Kashmir could easily ignite a nuclear conflagration, and it would be difficult to imagine a greater interest by the United States than preventing such a terrifying tragedy.

Mr. President, exacerbating the tensions in the region is a pattern of gross violations of the Kashmiri people's basic human rights. More than 20,000 Kashmiris have been killed in the past 6 years, and the people of Kashmir continue to endure daily abuses, most often at the hands of the Indian Army and security forces. The State Department's 1994 Report on Human Rights lists ''extrajudicial executions, torture and reprisal killings'' as common tactics used by Indian Government forces.

Only last month, Mr. President, a battle between militants and Indian troops in the town of Charar-i-Sharief started a fire that destroyed 1,000 homes, and a 600-year-old mosque that is Kashmir's most important Moslem shrine. The blaze also displaced nearly 25,000 people.

The resolution Senator LEAHY, REID, and I are offering speaks directly to the very serious issues that confront the people of Kashmir. It decries human rights abuses perpetrated by both Indian security forces and Moslem militants. It also speaks to the root of the threat to South Asia and to the United States—the failure to negotiate a settlement to the Kashmiri dispute.

Since 1972, India and Pakistan have worked through the Simla framework: bilateral negotiations to resolve bilateral problems, including Kashmir. After 23 years, it is time to admit failure. Negotiations will not succeed without the involvement of the Kashmiri people. The resolution that Senator LEAHY and I are introducing today asks that the Kashmiri people, through the peaceful voice of their Hurriyet Council, be represented in any negotiations on the future of Kashmir.

Kashmir must not be ignored; it will come back to haunt us all. I urge Senators to support not only this resolution, but more importantly, this cause.

Mr. LEAHY. Mr. President, I rise in support of the resolution on Kashmir submitted today by Senator HELMS, which I am cosponsoring along with Senator REID.

The situation in Kashmir has been a continuing concern of mine for many years. I am a friend of India, a country of nearly a billion people with great cultural and religious diversity and a myriad of problems. I have long believed that the United States and India have a tremendous amount to gain from closer relations. But I have been very disturbed by the excessive use of force by India's security forces in Kashmir, which has resulted in the detention, torture, and death of thousands of civilians. I am also very disturbed by the Pakistan Government's continuing assistance to the Kashmiri militants who have also been guilty of atrocities.

I am cosponsoring this resolution because I believe it is balanced, and because I believe the recommendations it contains are in the interests of India and Pakistan, and the Kashmiri people. It condemns acts of violence by both the Indian security forces and Kashmiri militants, and it welcomes the decision of the Indian Government to release Kashmiri political leaders who had been imprisoned.

Further, it urges the Indian Government to respond to continuing human

rights violations in Kashmir. Specifically, the resolution calls for prosecution of those responsible for human rights violations, since far too often those implicated in abuses have gone unpunished, and it requests the Indian Government to permit international human rights and humanitarian groups access to Kashmir. This is long overdue.

In addition, the resolution recognizes the Pakistani Government's efforts to reduce its support for Kashmiri militants, and calls on the Pakistani Government to take further steps including using its influence with private Pakistani sources to stop the acts of intimidation and violence by Kashmiri militants. A recent report by the Arms Project of Human Rights Watch described the flow of military assistance from Pakistan that has contributed to the violence and bloodshed in Kashmir.

The resolution does not express a position on what the future status of Kashmir should be. Rather, we urge the Indian and Pakistani Governments to enter into negotiations with legitimate representatives of Jammu and Kashmir in order to resolve the conflict in a peaceful manner. It is widely recognized that there is no military solution to the Kashmir conflict. It is long past time that the various parties with an interest in the future of Kashmir engaged in a serious dialogue to end the violence.

Mr. President, this is a balanced resolution that seeks to encourage and support a search for peace in Kashmir, and I want to thank the Senator from South Carolina, the chairman of the Foreign Relations Committee, for the constructive role he played in the drafting of the resolution. Our goal is to diffuse tensions in a dangerous region and to help resolve a bloody conflict that has caused enormous suffering over many years. The resolution should pass unanimously.

SENATE RESOLUTION 139—TO AUTHORIZE THE PRODUCTION OF RECORDS BY THE SELECT COMMITTEE ON INTELLIGENCE

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 139

Whereas, the Office of the Inspector General of the Central Intelligence Agency has requested that the Select Committee on Intelligence provide it with copies of committee records relevant to the Office's pending inquiry into the accuracy and completeness of information provided by Agency officials to the intelligence oversight committees of the Congress concerning the Agency's activities in Guatemala between 1985 and 1995;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Vice Chairman of the Select Committee on Intelligence, acting jointly, are authorized to provide to the Office of Inspector General of the Central Intelligence Agency, under appropriate security procedures, copies of records that the Office has requested for use in connection with its pending inquiry into the provision of information by officials of the Central Intelligence Agency to the congressional intelligence oversight committees.

SENATE RESOLUTION 140—TO AUTHORIZE THE PRODUCTION OF RECORDS BY THE SELECT COMMITTEE ON INTELLIGENCE

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 140

Whereas, the Office of the Inspector General of the Department of Justice has requested that the Select Committee on Intelligence provide it with copies of committee records relevant to the Office's pending review of matters related to the Aldrich Ames case;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Vice Chairman of the Select Committee on Intelligence, acting jointly, are authorized to provide to the Office of Inspector General of the Department of Justice, under appropriate security procedures, copies of records that the Office has requested for use in connection with its pending review into matters related to the Aldrich Ames case.

AMENDMENTS SUBMITTED

THE NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995

SNOWE (AND OTHERS) AMENDMENT NO. 1442

Ms. SNOWE (for herself, Mr. CAMPBELL, Ms. MOSELEY-BRAUN, Mr. SMITH, Mr. FEINGOLD, Mr. KOHL, Mr. KEMPTHORNE, Mr. GREGG, Mr. WELLSTONE, Mr. BROWN, Mr. PRESSLER, Mr. COHEN, and Mr. THOMAS) proposed an amendment to the bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes; as follows:

At the appropriate place in title I, insert the following:

SEC. . ELIMINATION OF PENALTIES FOR NONCOMPLIANCE WITH MOTORCYCLE HELMET USE REQUIREMENT.

Section 153(h) of title 23, United States Code, is amended by striking ''a law described in subsection (a)(1) and'' each place it appears.

CHAFEE (AND OTHERS) AMENDMENT NO. 1443

Mr. CHAFEE (for himself, Mr. HUTCHISON, Mr. LAUTENBERG) proposed an amendment to amendment No. 1442 proposed by Ms. SNOWE to the bill S. 440, supra; as follows:

Before the period at the end of the amendment insert the following: ''and inserting 'a law described in subsection (a)(1) (except a State that by law assumes any Federal cost incurred in providing medical care to treat an injury to a person in a motorcycle accident, to the extent that the injury is attributable to that person's failure to wear a motorcycle helmet) and' ''.

ROTH (AND OTHERS) AMENDMENT NO. 1444

Mr. ROTH (for himself, Mr. BIDEN, Mrs. BOXER, Mr. CHAFEE, Mr. COHEN, Mr. JEFFORDS, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. MOYNIHAN, Mrs. MURRAY, Mr. SPECTER, Mr. PELL, Ms. SNOWE, and Mr. D'AMATO) proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . INTERCITY RAIL INFRASTRUCTURE INVESTMENT.

(a) INTERSTATE RAIL COMPACTS.—

(1) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

(A) retaining an existing service or commencing a new service;

(B) assembling rights-of-way; and

(C) performing capital improvements, including—

(i) the construction and rehabilitation of maintenance facilities;

(ii) the purchase of locomotives; and

(iii) operational improvements, including communications, signals, and other systems.

(2) FINANCING.—An interstate compact established by States under paragraph (1) may provide that, in order to carry out the compact, the States may—

(A) accept contributions from a unit of State or local government or a person;

(B) use any Federal or State funds made available for intercity passenger rail service (except funds made available for the National Railroad Passenger Corporation);

(C) on such terms and conditions as the States consider advisable—

(i) borrow money on a short-term basis and issue notes for the borrowing; and

(ii) issue bonds; and

(D) obtain financing by other means permitted under Federal or State law.

(b) ELIGIBILITY OF PASSENGER RAIL AS SURFACE TRANSPORTATION PROGRAM PROJECT.—Section 133(b) of title 23, United States Code, is amended—

(1) in paragraph (1), by inserting '', railroads,'' after ''highways)''; and

(2) in paragraph (2)—

(A) by inserting '', all eligible activities under section 5311 of title 49, United States Code,'' before ''and publicly owned'';

(B) by inserting ''or rail passenger'' after ''intercity bus''; and

(C) by inserting before the period at the end the following: '', including terminals and facilities owned by the National Railroad Passenger Corporation''.

(3) in paragraph 6(a), by inserting, ''and for passenger rail services.''

(c) ELIGIBILITY OF PASSENGER RAIL UNDER CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) if the project or program will have air quality benefits through construction of and operational improvements for intercity passenger rail facilities, operation of intercity passenger rail trains, and acquisition of rolling stock for intercity passenger rail service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operating support.''.

DORGAN AMENDMENT NO. 1445

Mr. DORGAN proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . OPEN CONTAINER LAWS.

(a) ESTABLISHMENT.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

''§ 161. Open container requirements

''(a) PENALTY.—

''(1) GENERAL RULE.—

''(A) FISCAL YEAR 1998.—If, at any time in fiscal year 1998, a State does not have in effect a law described in subsection (b), the Secretary shall transfer 1.5 percent of the funds apportioned to the State for fiscal year 1999 under each of paragraphs (1), (2), and (3) of section 104(b) to the apportionment of the State under section 402.

''(B) FISCAL YEARS THEREAFTER.—If, at any time in a fiscal year beginning after September 30, 1998, a State does not have in effect a law described in subsection (b), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under each of paragraphs (1), (2), and (3) of section 104(b) to the apportionment of the State under section 402.

''(b) OPEN CONTAINER LAWS.—For the purposes of this section, each State shall have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State. If a State has in effect a law that makes the possession of any open alcoholic beverage container unlawful in the passenger area by the driver (but not by a passenger) of a motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers, the State shall be deemed in compliance with subsection (a) with respect to the motor vehicle for each fiscal year during which the law is in effect.

''(c) FEDERAL SHARE.—The Federal share of the cost of any project carried out under section 402 with funds transferred under subsection (a) to the apportionment of a State under section 402 shall be 100 percent.

''(d) TRANSFER OF OBLIGATION AUTHORITY.—If the Secretary transfers under subsection (a) any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall allocate an amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out only projects under section 402 that is determined by multiplying—

''(1) the amount of funds transferred under subsection (a) to the apportionment of the State under section 402 for the fiscal year; and

''(2) the ratio of the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs to the total of the sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to any obligation limitation) for the fiscal year.

''(e) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other law, no limitation on the total of obligations for highway safety programs carried out by the Secretary under section 402 shall apply to funds transferred under subsection (a) to the apportionment of a State under section 402.

''(f) DEFINITIONS.—In this section:

''(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning provided in section 158(c).

''(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning provided in section 154(b).

''(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' has the meaning provided in section 410.

''(4) PASSENGER AREA.—The term 'passenger area' shall have the meaning provided by the Secretary by regulation.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

''161. Open container requirements.''.

BYRD (AND OTHERS) AMENDMENT NO. 1446

Mr. BYRD (for himself, Mr. EXON, Mr. BUMPERS, Mr. BRADLEY, Mr. BIDEN, Mr. GLENN, Mr. HATFIELD, Mr. DODD, Mr. LAUTENBERG, Mr. JOHNSTON, Mr. SIMON, Mr. ROCKEFELLER, Mrs. BOXER, Mr. DASCHLE, Mrs. FEINSTEIN, Mr. INOUYE, Mr. MOYNIHAN, Mr. REID, Mr. PRYOR, Mr. HARKIN, Mr. STEVENS, Mr. HATCH, Mr. LEVIN, Mr. BAUCUS, Mr. WARNER, Mr. WELLSTONE, Mr. DORGAN, Ms. MOSELEY-BRAUN, and Mr. PELL) proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . OPERATION OF MOTOR VEHICLES BY INTOXICATED MINORS.

Section 158(a) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) OPERATION OF MOTOR VEHICLES BY INTOXICATED MINORS.—

''(A) FISCAL YEAR 1998.—If the condition described in subparagraph (C) exists in a State as of October 1, 1998, the Secretary shall withhold, on October 1, 1998, 5 percent of the amount required to be apportioned to the State under each of paragraphs (1), (2), (5), and (6) of section 104(b) for fiscal year 1998.

''(B) FISCAL YEARS THEREAFTER.—If the condition described in subparagraph (C) exists in a State as of October 1, 1999, or any October 1 thereafter, the Secretary shall withhold, on that October 1, 10 percent of the amount required to be apportioned to the State under each of paragraphs (1), (2), (5), and (6) of section 104(b) for the fiscal year beginning on that October 1.

''(C) CONDITION.—The condition referred to in subparagraphs (A) and (B) is that an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater when operating a motor vehicle in the State is not considered to be driving while intoxicated or driving under the influence of alcohol.''; and

(2) in paragraph (2), by striking ''AFTER THE FIRST YEAR'' and inserting ''PURCHASE AND POSSESSION OF ALCOHOLIC BEVERAGES BY MINORS''.

BAUCUS (AND OTHERS) AMENDMENT NO. 1447

Mr. BAUCUS (for himself, Mr. MCCONNELL, and Mr. BURNS) proposed an amendment to the bill S. 440, supra; as follows:

Beginning on page 28, strike line 15 and all that follows through page 29, line 14.

THOMAS (AND SIMPSON) AMENDMENT NO. 1448

Mr. WARNER (for Mr. THOMAS, for himself and Mr. SIMPSON) proposed an amendment to the bill S. 440, supra; as follows:

On page 8, line 3, insert ''(a) IN GENERAL.—''

before ''Section''.

On page 10, between lines 13 and 14, insert the following:

(b) ROUTES SEGMENTS IN WYOMING.—

(1) IN GENERAL.—The Secretary of Transportation shall cooperate with the State of Wyoming in monitoring the changes in growth along, and traffic patterns of, the route segments in Wyoming described in paragraph (2), for the purpose of future consideration of the addition of the route segments to the National Highway System in accordance with paragraphs (2) and (3) of section 103(c) of title 23, United States Code (as added by subsection (a)).

(2) ROUTE SEGMENTS.—The route segments referred to in paragraph (1) are—

(A) United States Route 191 from Rock Springs to Hoback Junction;

(B) United States Route 16 from Worland to Interstate Route 90; and

(C) Wyoming Route 59 from Douglas to Gillette.

PRESSLER (AND DASCHLE) AMENDMENT NO. 1449

Mr. WARNER (for Mr. PRESSLER, for himself and Mr. DASCHLE) proposed an amendment to the bill S. 440, supra; as follows:

Insert ''(a)'' immediately before ''Notwithstanding'' on page 32, line 17.

Insert a new subsection (b) after page 32, line 25, to read as follows:

''(b) Upon receipt of a written notification by a State, referring to its right to provide notification under this subsection, the Secretary of Transportation shall waive, with respect to such State, any requirement that such State use or plan to use the metric system with respect to designing, preparing plans, specifications and estimates, advertising, or taking any other action with respect to Federal-aid highway projects or activities utilizing funds authorized pursuant to title 23, United States Code. Such waiver shall remain effective for the State until the State

notifies the Secretary to the contrary. Provided further, a waiver granted by the Secretary will be in effect until September 30, 2000.''

SPECTER AMENDMENT NO. 1450

Mr. WARNER (for Mr. SPECTER) proposed an amendment to the bill S. 440, supra; as follows:

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

SEC. . CLARIFICATION OF ELIGIBILITY.

The improvements to, the former Pocono Northeast Railway Company freight rail line by the Luzerne County Redevelopment Authority that are necessary to support the rail movement of freight, shall be eligible for funding under sections 130, 144, and 149 of title 23, United States Code.

LEVIN AMENDMENT NO. 1451

Mr. BAUCUS (for Mr. LEVIN) proposed an amendment to the bill S. 440, supra; as follows:

SEC. 204. TOLL ROADS, BRIDGES, TUNNELS, NON-TOLL ROADS THAT HAVE A DEDICATED REVENUE SOURCE, AND FERRIES.

Section 129 of title 23, United States Code, is amended—

(1) by revising the title to read as follows:

"§ 129. Toll roads, bridges, tunnels, non-toll roads that have a dedicated revenue source, and ferries"; and

(2) by revising paragraph 129(a)(7) to read as follows:

''(7) LOANS.—

''(A) IN GENERAL.—A State may loan an amount equal to all or part of the Federal share of a toll project or a non-toll project that has a dedicated revenue source, specifically dedicated to such project or projects under this section, to a public entity constructing or proposing to construct a toll facility or non-toll facility with a dedicated revenue source. Dedicated revenue sources for non-toll facilities include: excise taxes, sales taxes, motor vehicle use fees, tax on real property, tax increment financing, or such other dedicated revenue source as the Secretary deems appropriate.

ABRAHAM (AND LEVIN) AMENDMENT NO. 1452

Mr. WARNER (for Mr. ABRAHAM, for himself and Mr. LEVIN) proposed an amendment to the bill S. 440, supra; as follows:

Strike lines 7 through 10 on page 33 and insert the following:

''(5)(A) I–73/74 North South Corridor from Charleston, South Carolina, through Winston-Salem, North Carolina, to Portsmouth, Ohio, to Cincinnati, Ohio, to termini at Detroit, Michigan, and Sault Ste. Marie, Michigan.

BREAUX (AND JOHNSTON) AMENDMENT NO. 1453

Mr. BAUCUS (for Mr. BREAUX and Mr. JOHNSTON) proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1___. TRANSFER OF FUNDS BETWEEN CERTAIN DEMONSTRATION PROJECTS IN LOUISIANA.

Notwithstanding any other law, the funds available for obligation to carry out the project in West Calcasieu Parish, Louisiana, authorized by section 149(a)(87) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 194) shall be made available for obligation to carry out the project for Lake Charles, Louisiana, authorized by item 17 of the table in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2038).

BUMPERS AMENDMENT NO. 1454

Mr. BAUCUS (for Mr. BUMPERS) proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place, insert the following;

SEC. . NORTHWEST ARKANSAS REGIONAL AIRPORT CONNECTOR.

Notwithstanding any other provision of law, the Federal share for the intermodal connector to the Northwest Arkansas Regional Airport from U.S. Highway 71 in Arkansas shall be 95 percent.

STEVENS AMENDMENT NO. 1455

Mr. WARNER (for Mr. STEVENS) proposed an amendment to the bill S. 440, supra; as follows:

On page 36, on line 12, strike the quotation mark and second period and insert:

''(24) The Dalton Highway from Deadhorse, Alaska to Fairbanks, Alaska.''.

BOXER AMENDMENT NO. 1456

Mr. CHAFEE (for Mrs. BOXER) proposed an amendment to the bill S. 440, supra; as follows:

In the appropriate place, insert the following: ''At the end of section 5309(g)(4) of title 49, U.S.C., add the following new sentence: 'The Secretary may enter future obligations in excess of 50 percent of said uncommitted cash balance for the purpose of contingent commitments for projects authorized under section 3032 of Public Law 102–240.' ''

FRIST (AND OTHERS) AMENDMENTS NO. 1457

Mr. CHAFEE (for Mr. FRIST for himself, Mr. FAIRCLOTH, Mr. HELMS, and Mr. THOMPSON) proposed an amendment to the bill S. 440, supra; as follows:

On page 26, line 3, strike ''1995'' and insert ''1994''.

On page 26, line 8, strike ''1995'' and insert ''1994''.

On page 26, between lines 13 and 14, insert the following:

(c) EFFECT OF LIMITATION ON APPORTIONMENT.—Notwithstanding any other law, for each of fiscal years 1996 and 1997, any limitation under this section or an amendment made by this section on an apportionment otherwise authorized under section 1003(a)(4) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1919) shall not affect any hold harmless apportionment adjustment under section 1015(a) of the Act (Public Law 102–240; 105 Stat. 1943).

COHEN (AND OTHERS) AMENDMENTS NO. 1458

Mr. BAUCUS (for Mr. COHEN for himself, Mr. KERRY, and Ms. SNOWE) proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1___. AVAILABILITY OF CERTAIN FUNDS FOR BOSTON-TO-PORTLAND RAIL CORRIDOR.

Section 5309 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(p) BOSTON-TO-PORTLAND RAIL CORRIDOR.—Notwithstanding any other provision of law, up to $3,600,000 of the funds made available under this section for the rail corridor between Boston, Massachusetts and Portland, Maine may be used to pay for operating costs arising in connection with such rail corridor under section 5333(b).''.

INOUYE (AND AKAKA) AMENDMENT NO. 1459

Mr. BAUCUS (for Mr. INOUYE for himself and Mr. AKAKA) proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place, in title I, insert the following:

SEC. 1 . REVISION OF AUTHORITY OF MULTIYEAR CONTRACTS.

Section 3035(ww) of Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2136) is amended by adding at the end the following: ''Of the funds provided by this subsection, $100,000,000 is authorized to be appropriated for regionally significant ground transportation projects in the State of Hawaii.''.

JOHNSTON (AND BREAUX) AMENDMENT NO. 1460

Mr. BAUCUS (for Mr. JOHNSTON for himself and Mr. BREAUX) proposed an amendment to the bill S. 440, supra; as follows:

Add new section as follows:

Notwithstanding any other provisions of law, section 1105(e)(2) of Public Law 102–240 is amended by adding at the end the following new sentence: ''A feasibility study may be conducted under this subsection to identify routes that will expedite future emergency evacuations of coastal areas of Louisiana.''

GRAMS (AND WELLSTONE) AMENDMENTS NO. 1461

Mr. WARNER (for Mr. GRAMS for himself and Mr. WELLSTONE) proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . 34TH STREET CORRIDOR PROJECT IN MOORHEAD, MINNESOTA.

Section 149(a)(5)(A) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 181) is amended—

(1) in clause (i), by striking ''and'' at the end; and

(2) by inserting ''and (iii) a safety overpass,'' after ''interchange,''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, June 21, 1995, at 9:30 a.m. in executive session, to discuss markup procedures and major issues in review of the defense authorization request for fiscal year 1996 and the future years defense program.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. COATS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, June 21, at 10 a.m. for a hearing on S. 929, the Department of Commerce Dismantling Act.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for an executive session, during the session of the Senate on Wednesday, June 21, 1995 at 9 a.m.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the Oversight of OSHA, during the session of the Senate on Wednesday, June 21, 1995 at 10:30 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. COATS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 21, 1995 at 2 p.m. to hold an open hearing on Intelligence matters.

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

ADDITIONAL STATEMENTS

FOREIGN AID HAS ITS USES

• Mr. SIMON. Mr. President, through the years I have found Brent Scowcroft to be one of the more rational and thoughtful people, when it comes to foreign policy.

Recently, he had an op-ed piece in the New York Times titled, ''Foreign Aid Has Its Uses,'' and it makes eminent good sense. I ask that it be printed in the RECORD at the conclusion of my remarks.

What concerns me is that while U.S. leadership abroad is slipping—and that should concern all of us—we are accelerating the slippage by cutting back on foreign aid.

In addition, when we cut foreign aid and increase military spending, we increase the likelihood of the use of the military option rather than other options that could save lives and bring stability.

The great threat to the world today is instability.

We should heed the words of Brent Scowcroft.

The material follows:

[From the New York Times, June 12, 1995]

FOREIGN AID HAS ITS USES

(By Brent Scowcroft)

Foreign assistance is again undergoing the ''perils of Pauline'' as it wends through the Congressional gauntlet. This happens yearly, but the dangers today seem especially ominous. With the search for budget economies so desperate, using up funds for what detractors call foreign giveaways when programs to assist needy Americans are being slashed seems unconscionable to many.

Foreign assistance, with us since the Marshall Plan, has been perhaps the most unpopular legislation to come before Congress for some years. The increased peril it faces arises mainly from the loss of the justification the cold war provided.

The case for foreign assistance is simple, basic—and misunderstood. The core argument is that foreign assistance is a fundamental instrument of foreign policy.

There are three main ways through which, separately or in combination, we can exert influence abroad. One is traditional diplomacy. Another is economic or military coercion. When diplomacy alone is inadequate and coercion too extreme or inappropriate, we have to turn to foreign assistance—the use of economic incentives.

Why the difficulty in persuading Congress and the nation of its merits? One reason is that some foreign assistance programs, however meritorious, have become so encrusted with activities and outlays that have so little to do with our direct national interests that the main purpose of the programs has become obscured.

In the cold war, our aid programs could carry this burden, but now the entire economic assistance edifice is endangered. We must refocus the programs to make them directly relevant to our national interests. For example, we need to emphasize the security requirements of countries of particular concern—Israel and Turkey, for example. We have to strengthen stability in areas of strategic interest: Gaza, Jericho, Poland and Czechoslovakia. We should see the Central American peace process through to its conclusion.

We need to suitably compensate countries that provide military installations as well as cooperation and support on issues of particular importance to us. For example, we recently offered incentives to Caribbean countries to accept Haitian and Cuban refugees.

We need to be able to respond quickly to unforeseen circumstances and unusual opportunities. For example, right after the ouster of Gen. Manuel Antonio Noriega, we helped Panama pay off its debts to international financial institutions, thus making other economic aid possible.

When Fidel Castro leaves the scene, economic assistance to Cuba may be needed immediately to ease the transition. A contingency fund for that purpose would be useful.

Support for democracy and for sustainable economic development serve our interests, but they are not top priorities. For example, help for the Development Fund for Africa would flow from the American tradition of compassion and altruism. And while our contributions to such international financial institutions clearly benefit us in the long term, we should base such aid on our wish to promote global prosperity rather than to promote specific American interests.

Like it or not, America has inherited the mantle of world leadership. In searching for budget cuts, we must not destroy foreign aid, a crucial means of exercising that leadership.•

CHISHOLM TRAIL ROUNDUP, FORT WORTH, TX

• Mrs. HUTCHISON. Mr. President, more than 100 years ago, cattle drives made their way across the Texas plains toward the railhead of Abilene, KS, along what came to be known as the Chisholm Trail. Within a span of only 2 decades, the Chisholm Trail not only transformed settlements and towns, like Fort Worth, into major centers of commerce, it also produced one of our Nation's most enduring folk heroes—the cowboy.

Since 1976, the Chisholm Trail Roundup has been held in the historic stockyards district of Fort Worth, TX. The roundup celebrates the Western spirit of adventure and perseverance and honors the cultures of tribe and nation that forged a new way of life on the American frontier. From native American dances to cowboy gunfights, the roundup displays all aspects of frontier life and creates an atmosphere in which learning about our history and enjoying the festival come together.

As one of the country's largest annual festivals, the Chisholm Trail Roundup is nonprofit and benefits Western heritage organizations. This past weekend, Fort Worthians gathered once again to celebrate the city's rich heritage and to relive one of the most memorable times in American history.

Mr. President, as the junior Senator from Texas, I would like to recognize the Chisholm Trail Roundup and its efforts to remind us to our pioneering heritage. I appreciate the thousands of hours of work that went into planning this event and am looking forward to many more roundups in the years to come.•

COMMEMORATING EAST BRUNSWICK HIGH SCHOOL'S AWARD-WINNING PERFORMANCE IN THE ''WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION'' NATIONAL FINALS

• Mr. BRADLEY. Mr. President, I rise today to congratulate a group of young New Jerseyans whose perseverance and achievement warrant the highest praise. These are not heroes or public figures of the usual variety, but a group of high school students who have mastered an understanding of the basis of our Government, the Constitution. I am proud to announce that students from East Brunswick High School in New Jersey have won second place in the ''We the People . . . The Citizen and the Constitution'' national finals.

Twenty-three students from East Brunswick High School came to Washington this May to compete against teams from all 50 States. After extensive study of the Constitution and the Bill of Rights, and preliminary competitions within the State, the students faced a panel of judges in a simulated congressional hearing. They were required to draw on their knowledge of the Constitution and American history to answer questions involving the subtleties and complexities of the Bill of Rights.

I am proud to draw attention to these students, who on May 1 were prepared to discuss issues ranging from school

prayer to classical republicanism and the natural rights philosophy. The achievements of East Brunswick High School serve as an example to students, educators, and legislators across the country. They remind us how important it is that every member of society, including parents, professionals, and legislators, participate in the educational process. Congressional support is crucial to the growth and development of future leaders. I am pleased to note that 98 Members of this body participated in this year's We the People program, which has reached more than 20 million students over the past 7 years.

Of those 20 million, I would particularly like to congratulate the students of East Brunswick High School, under the guidance of their teacher John Calimano: David Bagatelle, Michael Barnett, Jessica Boar, Ross Cohen, Brian Cutler, Brian Fischer, Marc Gensler, Jonathan Goldberg, Cliff Katz, Ken Katz, Michael Katz, Scott Lanman, Keith Levenberg, Jennifer LoPresti, Eric Neutuch, Evan Rosen, Jeffrey Seiden, Gregg Slater, Sheryl Spinner, John Stapleton, Alison Tanchyk, Howard Wolfson, and Marc Yannaco. These students of East Brunswick High School will lead our Nation into the 21st century, with the knowledge and commitment to understand and defend our Constitution. Success like theirs bodes well for an educated, tolerant, and politically engaged America.●

TRIBUTE TO GENERAL MUNDY

● Mr. KEMPTHORNE. Mr. President, on June 30, the U.S. Marine Corps and the Nation will say farewell to a valiant warrior, Gen. Carl E. Mundy, Commandant of the Marine Corps. I want to add my best wishes to General Mundy as he retires after 38 years of public service.

General Mundy's personal decorations include the Legion of Merit, the Bronze Star Medal, the Purple Heart, two Navy Commendation Medals and the Vietnamese Cross of Gallantry. I think the word ''gallantry'' exemplifies Carl Mundy's career.

The Commandant of the Marine Corps leads the Nation's ''911'' force which is ready for combat or deployment at a moment's notice. The marines are America's rapid deployment force and in our Nation's history we have frequently called upon our marines to go abroad, to make a stand, to defend our Nation's interests. Carl Mundy and our marines have never let us down and we all owe a debt of gratitude to these brave and selfless Americans.

General Mundy has a long history of defending the interests of the marine's who serve under his command. I think we all have a better appreciation of the quality of life issues and their impact on readiness because of the tireless work of Carl Mundy in this area. While we still have a long way to go to give all of our soldiers, sailors, airmen and marines a decent quality of life, Carl Mundy has clearly pushed the Department of Defense and the Congress to address these issues and I salute him for this effort.

Most of all, General Mundy is a leader and a man of his word. When the administration seemed determined to leave 55 FAST marines stranded in Mogadishu for no apparent reason, I asked for a hearing on this subject. Prior to the hearing, I discussed the issue with General Mundy and others to get a better feel for the situation. In my discussion with the Commandant, I saw he had only two objectives—accomplishing the mission and the interests of his marines. As it became clear that there was no mission to accomplish, the Senate voted to remove the last American military personnel, our 55 FAST marines, from Somalia. I appreciate General Mundy's support and guidance during the Senate consideration of this issue.

The marine's are a symbol of the strength and character of America. The presence of U.S. Marines overseas is an unmistakable signal that America is serious about its commitments and responsibilities. General Mundy is a symbol of these qualities, he served with a presence, and he served with honor and dignity. I want to thank Carl Mundy for his dedicated service to his country and his marines.●

THE DEFICIT AND TRADE

● Mr. SIMON. Mr. President, one of the most impressive leaders I have met during my years in public service is Helmut Schmidt, who served as chancellor of Germany.

Recently, he had an article about trade, which is interesting both because of what he says about trade, and also, because of what he says about our deficit.

Listen to these words:

> Every economist knows that the U.S. trade deficit can be eliminated only through a sizable reduction of the budgetary deficit. This fact is also well-known by the White House and Congress. And yet, American politicians continue to pretend to themselves and their people that the Japanese are responsible for their misery.

I am not saying that the Japanese are perfect in terms of opening their market to other countries, but there is no question that the principal reason for our trade deficit is our budget deficit. We have shot ourselves in the foot. We have a self-inflicted wound.

I ask that the full statement by Helmut Schmidt, which appears in the Los Angeles Times, be printed in the RECORD.

The material follows:

[From the Los Angeles Times/Washington edition, June 14, 1995]

THE UNITED STATES IS DEAD WRONG

(By Helmut Schmidt)

Listening to the U.S. trade representative these days evokes sounds of battle, of the adversary's conning and one's own self-righteousness. The recurring topic is automobiles, and everything is directed against Japan. If the overall trade between the two countries is in deficit for the United States, then—obviously—must not it be Japan's fault?

In reality, the United States shows a trade deficit not only with Japan but also with the rest of the world. Even if Japan were to buckle under the pressure from Washington to agree to import quotas for American automobiles—which would be in violation of the treaty establishing the World Trade Organization and of the painfully achieved results of the GATT Uruguay Round—the structural illnesses of the American economy would still remain untreated.

Every economist knows that the U.S. trade deficit can be eliminated only through a sizable reduction on the budgetary deficit. This fact is also well-known by the White House and Congress. And yet, American politicians continue to pretend to themselves and their people that the Japanese are responsible for their misery.

Washington's attempt to impose larger sales of American automobiles on the Japanese constitutes a serious violation of the principle of freedom of trade. Those who believe that punitive import duties of 100% on automobiles imported from Japan would give European cars a better chance are shortsighted indeed. This trade war can spread very rapidly. It can fast affect other areas, such as the aircraft industry and modern information technologies, as well as the television and movie industries.

In short, Washington is dead wrong. Its actions can endanger the world economy as a whole. Those Americans who, in spite of paying lip service to the contrary, really quite like the fall of the dollar on the currency markets because they hope to increase exports, should remember this: Whoever weakens the dollar as a leading world currency will undermine America's role as a world power in the long run.

Japan's position, however, is also unhealthy in the long run. Over the past 15 years, its production has largely exceeded its domestic consumption and investments. The extraordinary savings of the Japanese have turned their nation into the world's largest creditor. And no overpowering creditor will remain popular for long.

The leading officials in the ministries of finance and industry and trade who, in reality, control the Japanese economy have succeeded in structuring an economy oriented exclusively toward consumer self-restraint within and toward expansion in trade abroad. Neither the Japanese people at large, nor even most of the politicians, seem fully aware of this.

True, Japan has become a potential world power because of the foreign-policy leverage of its overwhelming financial strength. True, the annual interest and dividends from abroad have reached nearly one-third of the annual surplus of its trade balance. True, the Japanese foreign currency reserves have levels twice as high was those of the United States. Yet, Japanese citizens pay for this nominal wealth with sacrifices in consumption, especially by giving up adequate housing standards.

The Japanese markets are a difficult terrain for many foreign sellers. But even if President Clinton's offensive in the automobile trade war were successful, this would change little in the structure of the Japanese economy, which would continue to be oriented unilaterally toward exports. A structural reform to promote domestic expansion would in all likelihood take about one decade, about as much time as it would take to orient American structures toward a balanced budget. Until now, neither country seems to wish such drastic reforms.

Tokyo's political leadership has not yet realized that Japan's increasing economic strength has lead to an increasingly vulnerable foreign-policy position, not only vis-a-vis its only ally, the United States, but also vis-a-vis its many neighbors in East and South East Asia. An Asian-Pacific economic entity under Japanese leadership is even less popular with its neighbors than a European Union under a theoretically conceivable German leadership.

In the long run, Japan will remain dependent on a tolerable relationship with the United States. This conflict will benefit no one in the world. America is wrong in today's trade war, which is not to say Japan is right. Restraint is desirable from both sides. Both nations must realize that a structural reform of their economies is a must.

Helmut Schmidt, the former German chancellor, co-founded (with former French President Valery Giscard D'Estaing) the annual economic summits of the seven leading industrial countries. This year's opens Thursday in Halifax, Nova Scotia. This article is from Global Viewpoint, adapted from one originally published in the Hamburg-based Die Zeit.●

THE LANDMINE USE MORATORIUM ACT

● Mr. LEAHY. Mr. President, last Friday I introduced S. 940, the Landmine Use Moratorium Act of 1995, which seeks to spark international cooperation to stop the maiming and killing of tens of thousands of people each year by landmines.

I further ask to have printed in the RECORD a portion of a statement issued on June 16, 1995, by the U.S. Catholic Bishops at their semi-annual meeting in Chicago, entitled ''Sowing Weapons of War: A Pastoral Reflection on the Arms Trade and Landmines.'' In that statement the Bishops call on the United States to lead an international effort to ban the use of antipersonnel landmines. That is the goal announced by President Clinton at the United Nations last December, and my legislation aims to move us toward that goal.

The statement follows:

EXCERPT FROM SOWING WEAPONS OF WAR: A PASTORAL REFLECTION ON THE ARMS TRADE AND LANDMINES

Banning Landmines: An Urgent Task. Finally, we would like to add our voice to appeals of Pope John Paul II and the growing movement to control and eventually ban anti-personnel landmines. The Holy Father has issued ''a vigorous appeal for the definitive cessation of the manufacture and use of those arms called 'anti-personnel mines'. . . In fact, they continue to kill and to cause irreparable damage well after the end of hostilities, giving rise to severe mutilations in adults and above all, in children.'' Some 100 million of these hidden killers are strewn around the world, killing an estimated 500 people per week, most of whom are civilians. In Cambodia, one of every 236 people is an amputee because of mine blasts. While landmines can be used responsibly for legitimate defense, they are often indiscriminate in use, especially in the intra-state conflicts which are so prevalent today. Moreover, landmines are indiscriminate in time because, as the Pontifical Council for Justice and Peace has pointed out, they cause ''unacceptable damage to civilian populations long after the cessation of hostilities.'' From Cambodia to Angola, large areas have been rendered uninhabitable, preventing refugees from returning to their homes, inhibiting post-war reconstruction, and producing an ongoing threat to innocent life.

The United States should lead an international effort to reduce and ultimately ban the use of anti-personnel landmines, just as was done with chemical and biological weapons. The current moratorium on U.S. exports of landmines is commendable; it should be made permanent and should be extended globally. The United States should also take steps, such as those called for in legislation now before Congress, to further restrict its own use of landmines, while it pursues with urgency and persistence international agreements to restrict use globally. The decision to ratify the Conventional Weapons Convention and to seek to strengthen it during its review this year is welcome. Finally, our government should continue to take a leadership role in developing an international effort on the costly and time-consuming process of demining, so important to the protection of innocent life and reconstruction in so many war-torn countries.●

WHO CARES ABOUT AFRICA?

● Mr. SIMON. Mr. President, recently, the magazine America, published by the Society of Jesus, ran an article by its associate editor, Father James Martin, titled ''Who Cares About Africa?''

Because it contains so much common sense about a continent that we are not paying enough attention to, I ask to have it reprinted in the end of my brief remarks.

The reality is every continent on the face of the Earth is making gradual improvement in its quality of life and standard of living, with one exception: Africa.

The irony is as democracies have spread in Africa recently—an almost totally unrecognized phenomenon—instead of helping those fledgling democracies, we are cutting back on aid in general and aid to Africa more specifically.

It is a flawed policy both in humanitarian terms and in political terms.

I urge my colleagues to read Father Martin's article.

At this point, I ask that the article be printed in the RECORD.

The article follows:

WHO CARES ABOUT AFRICA?

''Kwanza begins today,'' the radio announcer said, launching into an explanation of the cycle of January African-American feast days. ''The word Kwanza,'' he said brightly, ''means 'first' in African.'' I groaned. He meant Swahili, of course.

Can you imagine any reasonably educated person saying that primo means ''first'' in European? But not knowing beans about Africa is taken for granted among many Americans. Before I went to Kenya for a two-year stay, a (well-educated) friend asked me if Kenya was in Nairobi. This is, to continue the analogy, like asking if Italy is in Rome. After I returned to the States, someone mentioned how exciting it must have been to be in Kenya when they elected Nelson Mandela.

But on this count, I had been just as guilty. When I began working with refugees in Nairobi, I had to ask them where their home countries were. ''Sudan is, uh, north of here, right?'' I finally bought a map.

THE DARK CONTINENT

American interest in Africa, it would seem, is piqued only during times of crisis: Ethiopia, Somalia, Rwanda. Some of this is laudable. Only the most cynical would say that Americans were not moved to compassion after seeing pictures of the Rwandan refugees or starving Somalis.

The problem is that once the United States ceases to be involved, we no longer hear anything about it. It's the flavor-of-the-month syndrome. For example, as soon as the United States pulled out of Somalia in March 1994, Somalia dropped out of the news, giving the false impression that things were just fine there. And, just as predictably, when U.S. troops returned to Somalia in March of this year to escort the remaining U.N. troops out, it was back in the news. As a result, the American public's understanding of Africa is based primarily on these short-term involvements. And while U.S. policy mavens may be more well informed, the public's misunderstanding often drives policy makers into responding inappropriately.

Even the level of involvement and awareness among African Americans has been a disappointment to Africans. Some Kwanza celebrations, important as they are for fostering a sense of values and cultural continuity, can end up as grab bags of various traditions—Kente cloth from Ghana, Swahili from East Africa, history from Egypt—and may sometimes run the risk of cultural tourism. Many agree. Makau Mutua is a Kenyan who runs Harvard Law School's Center for Human Rights and also serves as chairman of the Kenyan Human Rights Committee. ''I think the knowledge of African Americans about Africa has to be based on fact, not fiction,'' he told me in a recent conversation.

But what can we expect? For even the most diligent Africaphiles, it is difficult to find news about Africa in the mainstream media—unless, of course, the United States is involved. They don't call it the Dark Continent for nothing.

With the exception of a few major newspapers, and magazines like The Economist, the print media all but ignore the tremendous richness of African cultures, to say nothing of the continent's variegated politics. There are 52 African countries, comprised of thousands of ethnic groups with their own languages, spiritualities, traditions, and arts. Even speaking of things ''African'' is misleading, since that adjective is forced to encompass the long-literate Christian traditions of Ethiopia in addition to those of the semi-primitive, nomadic East African Maasai tribe in addition to . . . well, you get the picture. By any measure it is a fascinating mix of cultures that is, for the most part, ignored.

As for television, its coverage runs heavily to the following: famine, poverty, war and especially animals—National Geographic-style. (One example: How many stories did you read about Rwanda before last year that didn't have to do with Diane Fossey's gorillas?)

During my first week in Kenya I met a Somali refugee named Amin. I assumed from my prior CNN education that, like any ''typical'' refugee, he was poor and uneducated, probably illiterate. He certainly looked the part: an unkempt, older man wearing a faded blue suit, shiny with age. I had already started a language course, so I asked him if he would be more comfortable speaking Swahili.

''Actually,'' he said in the King's English, ''I would be equally comfortable in English, French or Italian.'' As it turned out, he had received his doctorate in philosophy at the University of Florence. He was, in short, far more educated than I was. Meeting him made me realize how poorly I understood Africa.

My point is not that we should all dash out and buy armfuls of books about Africa (although it's not such a bad idea). The point is

rather that this ignorance inevitably affects U.S. responses to the various crises that we say concern us so.

RECEIVED WISDOM

Let's take two recent examples: Somalia and Rwanda. As with much of the reporting about Africa, both countries have been viewed through certain lenses, or ''angles,'' replicated over and over by much of the media. Somalia, we were told, is a violent tribal society whose warfare exacerbated a natural shortage of food, causing widespread famine. The United Nations, led by the United States, went in, distributed food and restored some order—that is, until the ungrateful Somalis starting fighting us. Then we had to get out.

Similarly, Rwanda was presented as a society divided into violent tribes—Hutu and Tutsi—that degenerated into lawlessness when, after the President's assassination, the people rose up and massacred one another. Fortunately, the West came to help out the Rwandan refugees who had fled to Zaire and Tanzania.

This is not the place for a full explication of the complicated politics of Somalia and Rwanda. But it is instructive to review how accurate the received wisdom was—by asking a few experts.

First, what about the ''violent'' Somali culture? ''This invocation of 'mysterious primordial violence' is repellent,'' said Gregory White, professor of political science at Smith College in Massachusetts and a specialist in African politics. ''Somali culture is certainly not bereft of violence, but the intensity of the violence you see today is a decidedly modern phenomenon. It must be seen within the context of the arms infusions—the modern weaponry—provided by the U.S. and the Soviet Union during the Cold War.''

How about another bit of received wisdom—the West's generous and timely response to Rwanda? I asked Timothy Longman, who teaches at Drake College in Iowa. Professor Longman spent 1992 and 1993 in Rwanda finishing his doctoral thesis on church-state relations in Rwanda. He is one of this country's leading experts on Rwanda. What did he think of the West's response?

''It was shameful,'' he said bluntly. ''We could have prevented the disaster and we chose not to.''

Clearly this is not the familiar media angle. And his explanation of this particular point demonstrates how far the media stories sometimes stray from a more complex truth. According to Professor Longman, the killings were initially carried out by a very small group of Rwandans and could have been stopped. There were, he noted, U.N. troops already in Rwanda at the time, and they could have expanded rather than shrunk their presence.

''The people I know who were killed were killed some three weeks after the violence started in Kigali,'' he explained. ''The later massacres happened because they got away with it in Kigali. The West's only concern was to protect their nationals and pull them out of the country—though they were never really threatened. So the message given to the Rwandans was that they could literally get away with murder. And because it was so systematic, because it was not random violence, and because it was not spontaneous violence coming from the people, it could have been stopped. That's something the world community had fully within its capabilities. But they chose not to.''

Why not? The first reason, he said, derived from our experience in Somalia: not to get involved in a hopeless ''tribal conflict'' with ungrateful people. Smith Hempstone, U.S. Ambassador to Kenya from 1989 to 1993, said in a recent conversation, ''To some degree, I think that's why there wasn't the reaction to Rwanda that there was to Somalia.''

Which brings us back to a conflict that, according to some, we may have never understood in the first place. ''I think the lessons we learned from Somalia were the wrong ones,'' said Makau Mutua. In other words, misunderstanding bred misunderstanding.

These admittedly isolated examples point out the difficulty of making judgments about the complex environment of Africa based on the simplistic presentations provided by the mainstream press. Once the media-driven ''angles'' take root in the public mind they become difficult to dislodge and force policy to go where it perhaps should not. Our perceptions of Somalia influenced our response to Rwanda, and will undoubtedly influence the U.S. response to other crises on the continent.

OTHER WISDOMS

One touchstone for all of this, I think, is the identification of African conflicts as ''tribal'' and European ones as ''ethnic.'' Have you ever heard of ''tribal'' violence in Northern Ireland? Well, that's religious, you might say. So how does one define a ''tribe''? And do such groups exist only in Africa?

Professor Longman summed up this idea: ''It is viewed as a 'tribal conflict' because Africans are basically a 'tribalistic' people, because they're seen as 'savages'; they're black. Therefore, they're just going to fight one another and there's nothing we can do. And I think it's a mistaken notion.''

Why? ''It is a view driven by racism,'' said Makau Mutua. His conclusion was echoed by Professor Longman: ''The more I get into this, the more I interpret it in racial terms, and the more it seems that black people are considered to be expendable. This was what was used to justify colonialism in the first place, and I think the attitudes are still there.''

The hard facts show that U.S. support for Africa is shockingly low and may fall even lower. According to Terence Miller, director of the Maryknoll Society's Justice and Peace Office in Washington, D.C., U.S. aid to sub-Saharan Africa (all but five African countries) was $802 million in 1994. At first blush that may sound high, but consider the amount that goes to just two countries—Israel and Egypt—$5.2 billion. In other words, 45 countries in Africa receive about one fifth the amount of aid given to those two countries.

Overall, total U.S. aid to Africa represents a paltry one-twentieth of the foreign aid budget, which itself is only 1.3 percent of the Federal budget. And the push in Congress, especially among people like Senator Mitch McConnell (Rep., Ky.), incoming chairman of the Foreign Relations Committee, is to reduce even this meager amount, while maintaining aid to the Middle East at current levels. ''The world around Africa is fast coming together, and this continent risks becoming the odd man out,'' said Anthony Lake, President Clinton's national security adviser, in The New York Times on March 17.

Is Africa, then, to be consigned to the dustbin? A recent article by William Finnegan in the March 20 issue of The New Yorker focused on the depressing post-U.N. Somalia legacy of no infrastructure, no government, intense poverty and, as his wrenching article points out, no education for an entire generation of Somali youth. He paints the now familiar African scene of crumbling school buildings surrounded by hundreds of idle children, their formative years slipping away like the sand that blows through the empty classrooms.

I asked Tim Longman if he planned to return to Rwanda. ''Someday,'' he said. ''But most of the dynamic and inspiring people I worked with are dead.''

HORROR FATIGUE

At this point, the concerned but skeptical reader might say either ''Well, it really is their own fault'' or ''There's nothing we can do.'' To respond to the first reaction, it is helpful to remember not only the West's role in propping up various dictatorships throughout the cold war and providing arms, but also its earlier imposition of colonial boundaries, which threw traditionally separate ethnic groups together. Here is a thought exercise: Imagine a foreign power conquering Mexico and Texas, and calling this resulting amalgam of two separate cultures, say, Mexas. After 100 years, Mexas gains independence. Do you think the former Mexicans and Texans would get along very well? Probably not.

Indeed, when Queen Victoria and Kaiser Wilhelm were drawing the borders of their East African colonies in 1884, both decided they wanted a big mountain. To provide for this, their ministers simply took out a ruler and drew a line between Mt. Kenya and Mt. Kilimanjaro. The line divided various tribal lands; thus were British East Africa and Tanganyika created. These artificial boundaries endure today as Kenya and Tanzania. Tribes that traditionally lived apart were thrown together against their will. So saying the ethnic tension is the Africans' own fault is more than a little simplistic.

The second reaction—''There's nothing we can do''—reflects a familiar sentiment. Ambassador Hempstone put his finger on this feeling: ''I think that we may have reached the sort of 'horror fatigue' situation in which, when you've seen one starving baby, you've seen them all. And that bothers me.''

Certainly the apparent ingratitude on the part of the Somalis engendered indignant reactions from the American public and the press. Some of this represented righteous indignation, as when Somalis dragged the body of an American soldier through the streets. This is barbaric. But much may be a result of the média's incessant focus on Mogadishu, rather than on other areas where the famine-relief strategy helped to save an estimated 300,000 lives.

INTO AFRICA

What can be done in the future? This is a broad question but one that warrants consideration, given that the African continent is, as the director of the Jesuit Refugee Service, Mark Raper, said recently, ''in a state of chronic collapse'' (Am., 3/25).

Many feel that some sort of limited engagement must be part of our future involvement with Africa, and gone is the hubris of ''nation-buidling'' that went awry in Somalia. Ambassador Hempstone, for example, thinks we must confine ourselves largely to humanitarian efforts. ''I think one of the lessons I've learned is that you don't want to try to re-create a society—nation-building and all that. I'm not sure we're competent to do that.''

Tim Longman points to another mode of engagement,''I was at a conference a year and half ago with Cardinal Christian Tumi of Cameroon, Archbishop Desmond Tutu and other Protestant and Catholic leaders from Africa. Their unanimous agreement was that if the West wants to help Africa, the best thing they could do right now is stop the international arms trade.''

Most agree that the mental isolationism that allows Americans to think of Africa as alien has to end. ''I think it's difficult for Americans to be interested in other countries unless they feel that their own futures are interconnected with the futures of others,'' said Makau Mutua. He looks to the various constituencies that have traditionally been concerned with African affairs—church groups, the Africanist community in academia and especially African Americans—to

inform people better about Africa. ''The critical point is that the lack of information in this society about Africa has to be laid at the door of those groups who have the ability to inform people better.''

One hopeful sign is that the African-American community is increasingly finding its voice on African politics beyond South Africa. Randall Robinson's TransAfrica lobby, created in 1977, has intensified the influence of African Americans in foreign policy. In March Mr. Robinson created a coalition of prominent African Americans who pledged to put pressure on Nigeria's military dictatorship to restore democracy.

TransAfrica also might do well to pressure the media to cover the continent more thoughtfully. A few newspapers already do. The New York Time's Donatella Lorch has provided consistently good coverage of Rwanda, including insightful reporting on the massacre in late April of 2,000 people in the Kilbeho camp. An excellent series of articles in March in The Philadelphia Inquirer, ''Remnants of a Nation,'' focused on Rwanda one year after the genocide of 1994. The reporter, Glenn Burkins, included the standard angles—refugees, ethnic strife—but also discussed lesser-known aspects of the situation in Rwanda, such as the prison system and the urgent need for international aid to the Rwandan Government. The media can help keep Rwanda from sliding back into oblivion.

Similarly, the media can help by more fully explicating the problems of current African trouble spots. Thousands are fleeing from ethnic unrest in Burundi; Christians are being massacred (and, recently, crucified) by Government troops in southern Sudan, and 2,000 people have already lost their lives in the past two years in ethnic land clashes in Kenya. Though the Western powers are not yet involved in these crises, learning more from the media could help prevent the sort of spasmodic, misinformed responses to crises that will continue to dog Africa in the future.

In the end, the problems of Africa remain our problems. The people are, as Jesus would undoubtedly point out, our brothers and sisters, and many of them suffer tremendously. Fully 54 percent of the people of Africa live in absolute poverty. Furthermore, the West has been, to some degree, complicit in Africa's troubles today, not only because of the colonial past but also because of our recent actions there—the arms trade and our activities in the cold war. Finally, as Professor White pointed out, ''Even if you just want to be self-interested, the concomitant ignorance of Africa is shortsighted, because in the long run, as more problems continue to emerge, our ignorance will come back to haunt us.''

SALUTE TO GEN. MIKE LOH

• Mr. KEMPTHORNE. Mr. President, next week, General Mike Loh, Commander of Air Combat Command, will retire after 39 years of distinguished service in the U.S. Air Force. I want to take this opportunity to thank General Loh for his unselfish service to the national security interests of the United States.

General Loh's career began in the second class to graduate from the U.S. Air Force Academy. After graduating with honors, Mike Loh went on to serve as a decorated fighter pilot, flying over 200 missions, in Vietnam. General Loh's awards include the Distinguished Service Medal, the Legion of Merit with oak leaf cluster, the Distinguished Flying Cross, the Meritorious Service Medal and the Air Force Medal with seven oak leaf clusters.

Mike Loh's career reached its zenith when he was selected to serve as the Commander of Air Combat Command. As Commander of ACC, Mike Loh was responsible for most of this Nation's air power and over 250,000 men and women. As General Loh retires, the strength, professionalism and reputation of Air Combat Command has never been higher. For that, a grateful, more secure nation says thank you.

My colleagues and I in the Senate know General Loh best as a ferocious advocate for a strong Air Force. In repeated testimony before the Senate Armed Services Committee, General Loh earned a reputation as a straight shooter who would tell it like it is. General Loh never hid his views or his feelings and you never left a meeting with Mike Loh wondering where he stood on an issue. At my request, General Loh made repeated visits to my office to discuss bomber and tactical aviation issues. I came away from each of those meeting more informed about the issues, more understanding of the value of air power and more impressed with General Loh's abilities. The Air Force will lose a patriot, an innovator and an articulate spokesman when General Loh retires.

I want to thank General Loh for 39 years of loyal service to the Air Force and his nation. I want to thank General Loh for his steadfast support for a strong Air Force and a service that looks out for the men and women who volunteer to wear the uniform of the United States of America. Most importantly, I want to thank General Loh for his commitment to serve and defend the national security interests of the United States.•

LITERACY

• Mr. SIMON. Mr. President, I picked up the spring 1995 issue of the Congressional Institute for the Future and noted the following Barbara Bush quotation in it: ''There is really no question that literacy is related to all our social concerns—crime, drugs, and teenage pregnancy as well as America's stature in the world, our competitiveness on the international scene, and our national security. Low literacy goes hand-in-hand with unemployment, low productivity, and problems with job retraining in our rapidly changing communities—this is a now and future issue. The literacy of parents affects the educational chances of children. We are only just beginning to treat this complex, many-sided issue with the care and concerted action it requires.''

Barbara Bush provided significant leadership on this issue of literacy, and if we're to have a truly productive country, we're going to have to pay more attention to this issue.

One complaint I hear about more from heads of major corporations is how poorly prepared American workers too often are.

The basics have to be there in the field of education to have a well prepared work force. The basics are the old ''reading, writing, and arithmetic.''

People in this country are not more stupid than people in other Western industrialized countries, but the other countries have had the good sense to put a greater stress on basic literacy.

We have to do the same.

Yes, we ought to improve the schools that we have, but we also have to reach out to those who have not been helped by schools, adult Americans.

I urge my colleagues to keep in mind Barbara Bush's words of wisdom.•

FAYE OLASOV: DEDICATED TO CHARLESTON

• Mr. HOLLINGS. Mr. President, let me take this opportunity to send birthday greetings to Faye Olasov, a friend from my hometown of Charleston, SC. Faye, a long-time activist in Charleston's Jewish community who turned 70 earlier this month, soon will be honored for all her work to make Charleston a better place to live.

Mr. President, quite frankly, Faye is a whirlwind of wonder and joy. When people throughout the Charleston Jewish community think of a person who embodies family and wholesome values, Faye is the first person whose name comes to mind. She is the engine that has driven the Jewish Community Center in Charleston. At various times, she has served as day camp counselor, activities director, CenterTALK editor, Sherman House manager, and a newspaper columnist. Last December when she retired from the center, she left shoes that are hard to fill.

Faye Rabinowitz Olasov was born June 13, 1925, in Charleston. When the Nation was at war in the 1940s, she attended the College of Charleston, where she was business manager and editor of the yearbook and president of the Dramatic Society. After a distinguished college career, she graduated in 1946. On top of all her work in Charleston's active Jewish community, Faye and husband Sanford Olasov had four children—Nathan, Billy, Barbara, and Judy, who my wife Peatsy taught at St. Andrews High School.

Mr. President, now the communsity is coming together to give back something to Faye, who has given so much over the years. On July 9 at the Charleston Jewish Community Center, the community will honor Faye at a brunch that highlights her achievements and looks back at a life filled with compassion and great memories.

Mr. President, if I may be so bold, we should all take a look at Faye's life and use it as the model of how to be involved in a community. I appreciate this opportunity to recognize the warmth, energy, and lifelong commitment of Faye Olasov—a true community leader. Let us all wish Faye a

happy retirement and many more years to come.●

A CONSUMER'S GUIDE

● Mr. SIMON. Mr. President, there is a great deal of discussion about the loan guarantee for Mexico, most of it negative because that is where public opinion is today.

Any careful study of the merits of the issue suggest that the safer gamble between doing nothing or having a $40 billion loan guarantee is the $40 billion loan guarantee. I do not like the option, but that is the reality we face.

We are being asked to cosign a note, but there is some security with a note, and if we do not go ahead, the consequences in terms of illegal immigration, loss of export markets and, simply, the suffering that will take place south of our border are much too clear.

Tom Friedman of the New York Times has a column which puts another perspective on this matter that I think also makes sense. He is not interested in bailing out the bankers who hold some of the Mexican bonds, but he is interested in preserving our pension systems, which also hold many of these bonds.

What he says makes sense, and I ask that the Tom Friedman column be printed in the RECORD.

The column follows:

A CONSUMER'S GUIDE

(By Thomas L. Friedman)

ZURICH.—One of the hottest topics in finance these days is how to prevent another Mexico from destabilizing the global financial system. Finance ministers will tell you that the subject has been dominating all their international meetings, and you are going to hear a lot of their proposed solutions at this week's G–7 summit in Halifax. This is a Warning: There is more nonsense than common sense among these proposals. Since some of them could cost you money, I offer this survival guide to the I-can-prevent-the-next-Mexico schemes.

I. Bad Ideas That Sound Good.

The worst of these bad ideas is the proposal to establish a $50 billion standby rescue fund—administered by the I.M.F.—that would be ready as a life preserver to be tossed to any country dragged under the waves by global markets running amok.

I call this idea ''The George Soros Memorial Gift Fund.'' In 1992 Mr. Soros, the billionaire currency speculator, mounted a fierce attack on the overvalued British pound, and Prime Minister John Major of Britain spent billions trying to defend his inflated currency against a devaluation. Eventually the pound was broken. But you can bet that if there had been a $50 billion rescue fund available in 1993, Mr. Major would have tapped it. And just as surely, that $50 billion would be in Mr. Soros' pocket today. The more money that government leaders have to defend faulty economics and their own egos, the richer Mr. Soros becomes by exposing their foolishness.

Don't get me wrong. I'm for the Mexico bailout. But I want it to be hard. Dangling a $50 billion fund out there only invites buccaneering governments to be reckless. Professors should never begin the semester by announcing when the makeup exam will be. Governments should have to operate on the assumption that there will never be a makeup exam—and if there is one, it will be an extraordinary event.

II. Good Ideas That Are Not as Good as They Sound.

The best of this lot is the decision by the I.M.F. to intensify its surveillance of financially shaky nations. The I.M.F. used to do only a once-a-year checkup on its client countries. But it was precisely in the months between annual checkups that Mexico went on the wild spending binge that caused its financial heart attack.

The I.M.F. has now promised to keep closer tabs on its clients. But this is no cure-all. Remember one thing: Many of Mexico's financial problems, on the eve of its crash, were hiding in plain sight. Public data showed it was running unsustainable deficits and was too dependent on hot money from abroad. These data were ignored because investing in Mexico had become a fad. Too many foreign investors had been to cocktail parties where people were whispering: ''Mexico—you gotta be in Mexico.'' Fads will always trump logic. When the Hula Hoop was hot, no one wanted to hear that it was bad for your hips.

III. Small Ideas That Could Make a Big Difference.

1. Copy Chile. Chile demands that foreigners who want to buy Chilean stocks hold them for at least a year. That way if your country is practicing sound economics it won't be punished when the next Mexico crashes and jittery investors scream to their brokers: ''Get me out of all emerging markets.'' In Chile's case, investors could not get out, and so Chile, unlike Brazil and Argentina, was not punished for Mexico's sins.

2. Save, save and save. If your country has a low savings rate, it will have to rely on another country's savings for growth. That will make your country vulnerable to the whims of global markets and global markets vulnerable to the crazy behavior of your country. (See encyclopedia entry for Mexico.)

3. America's next global economic crusade should be to get more developing countries to adopt U.S.-style securities laws—the toughest in the world for financial disclosure, conflict of interest and insider trading. Many of the new stock markets in Asia and Latin America are still rigged casinos, where investors are just begging for trouble. (See encyclopedia entry for Barings Bank, Singapore.)

4. Fasten your seat belts, put your tray tables and seat backs in a fixed and upright position and enjoy the ride. Because there is simply too much money, moving around the world too quickly, with too few controls, and too many governments ready to do anything to get slice of it, to prevent another Mexico somewhere over the horizon.●

JUNETEENTH DAY

● Mr. KOHL. Mr. President, I would like to join my fellow citizens in the State of Wisconsin in celebrating Juneteenth Day, a day which celebrates the abolition of slavery in the United States. As much as any other event in African-American history, the Emancipation Proclamation was one step in the long struggle which has lasted the last two centuries. This document is an affirmation of freedom and dignity, and is also a reaffirmation of the goals, hopes and dreams of all African-Americans.

The African-American community has given so much to this country, and Juneteenth is a day to celebrate the many achievements made by African-American men and women. This day is not only a celebration of freedom, but a statement of understanding and pride in the African-American culture. History is rich with the contributions made by African-Americans, and they continue to be a valuable part of this society.

The Emancipation Proclamation of 1863 was the beginning of a long road for the African-American community which we still continue to travel today. The fight for equality continues and we must push for the dream of Dr. Martin Luther King Jr. that all children ''not be judged by the color of their skin but by the content of their character.'' We have come a long way since the enactment of the Emancipation Proclamation, but we must persist with the idea that each person in this country be offered every opportunity and there is equality in every aspect of society. I invite my colleagues to join me in celebrating Juneteenth Day, a day of freedom, pride, and dignity in the African-American community.●

UNICEF ASKS BROADER AID FOR CHILDREN

● Mr. SIMON. Mr. President, recently, Barbara Crossette had an article in the New York Times titled, ''UNICEF Asks Broader Aid For Children.''

The article quotes the new head of UNICEF, appointed by the President of the United States, Carol Bellamy, as saying the United States should do better in our response to the needs abroad.

I could not agree with her more.

I hope we do not diminish the United States contribution to world stability by cutting back on foreign aid, as we seem destined to do right now.

I ask that the Barbara Crossette piece be entered into the RECORD at this point.

The article follows:

[From the New York Times, June 12, 1995]

UNICEF ASKS BROADER AID FOR CHILDREN

(By Barbara Crossette)

UNITED NATIONS, June 9—The United States now ranks lowest among 21 industrial countries in the amount of foreign aid it gives in relation to its gross national product, according to a new study by Unicef, the United Nations Children's Fund.

Although American aid is second only to Japan's in dollars—$9.7 billion as calculated by international organizations using 1993 figures—it represents 15 hundredths of 1 percent of G.N.P.

The Scandinavian countries and the Netherlands lead the list, with levels above 80 hundredths of 1 percent, and in those countries, as in the United States, aid budgets are facing new cuts.

The general reduction in foreign aid comes at a time when Unicef is urging all countries to look at the situation of children in the broadest terms, including the environments in which their mothers live.

''The child can't really be seen as separate and on an island,'' said Carol Bellamy, Unicef's executive director. ''You can adopt some concrete objectives and go out and seek to achieve them, but the child has to be seen in the broader context of the community.''

In an interview here last week before leaving for Berlin, where she released the report

today, Ms. Bellamy said the Unicef board had recently approved clean water and education programs that would benefit whole villages and people of all ages.

Taking a broader look, she said, means that programs can be tailored to national needs and levels of development: basic survival in a country like Chad or children's rights in Argentina or Chile.

Among its recommendations, the report calls for campaigns to attack vitamin deficiencies and malnutrition, the precursors to disease in many countries, and to ameliorate or end deprivations and social abuses of children that weaken them and ultimately threaten their lives.

''In all regions of the world,'' the report said, ''children continue to be malnourished, to be plagued by preventable disease, to be denied even a basic education.''

Unicef says that about 200 million children worldwide suffer from vitamin A deficiency, which impairs the immune system and can lead to blindness and death. One million to two million children's lives could be saved each year by vitamin supplements, the report says.

About half of the 13 million children who die each year are victims of three major illnesses: pneumonia, diarrheal disease and measles. While measles is in retreat, the report says, pneumonia, the single largest killer of children, is not. And AIDS is now a threat. About one million children now have the virus that causes AIDS, many in Africa and Asia.

With the world population growing fastest in the poorest countries, where children are likely to live in the worst conditions, Ms. Bellamy said the reduction in aid was especially unfortunate.

''None of us benefit if our partners in development are being hurt, because we are actually all in the same development boat,'' she said.

Ms. Bellamy, a former Peace Corps volunteer in Guatemala and director of the Peace Corps before she joined Unicef in May, said she had the point of interrelationships driven home when she became City Council President in New York in 1978.

''Here in New York City—the industrialized world—we had not had a full-scale immunization program for a number of years,'' she said. ''A third of all youngsters in New York City schools and close to a half of poor youngsters were not immunized. So we started a program to get all kids immunized.

''There is a direct connection between that investment in aid and health care back here in the United States. If polio breaks out one place in the world it can just come back and spread again. The walls between nations are now very thin curtains.''

IN RECOGNITION OF EUGENE PETERS

• Mr. BRADLEY. Mr. President, I rise to offer my gratitude and respect to a long-time member of my staff, Eugene Peters, who recently left my office after 10 years. I will miss Gene, as will everyone who worked with Gene on my staff, and his colleagues and counterparts on the Committee on Energy and Natural Resources.

Gene is a member of a very small club here—second-generation Capitol Hill staffers. His father held several high posts in the House of Representatives, and Gene worked his way through college, in New Jersey, by spending summers as an elevator operator in this building. By the time he joined my staff in 1984, Gene had turned to scientific and academic pursuits, completing graduate work in both engineering and public policy. But while he may have been taught to think like an engineer, he was a natural at the very different and less orderly demands of getting legislation passed. His instinctive, entrepreneurial skill was demonstrated by his ability to handle hundreds of issues at once and find opportunities in each one to improve the quality of life in New Jersey.

Gene Peters deserves not only my thanks, but those of the people of New Jersey. The shore is clean again this summer, because, in part, of Gene. Open spaces, which are jealously guarded in a State so densely populated, remain pristine, because of Gene Peters. There is less lead in the air and soil, and more awareness of its dangers, because of Gene. And hopefully, before this year is over, the citizens of New Jersey will have better protection from gas explosions in part because of Gene's hard work.

The quality that has made Gene a great member of my staff is a simple one, but rare: He knows his stuff. Behind his relaxed, dressed-down persona, Gene knows just about all there is to know about Federal energy programs, land-use and water policy, beach erosion and replenishment, wasteful agricultural programs and numerous other issues that came his way. Gene brought to all these issues not just enthusiasm and knowledge, but the perspective of a parent who understands that the environmental laws we pass have important and far-reaching implications for the well-being of future generations. His ability to keep the work he did in perspective set an example for my entire staff. I will miss him, and I wish him luck in his new position at the Independent Energy Producers Association.•

REDUCING GANG VIOLENCE

• Mr. SIMON. Mr. President, today, I would like to share an important Chicago Tribune article with my colleagues. It highlights an interesting new program offering healthy alternatives to gang members.

Irving Spergel, a University of Chicago professor and national expert on gangs, has founded a program in the Little Village neighborhood of Chicago designed to reduce gang violence. The program, which is federally funded, is entitled the Gang Violence Reduction Project. Professor Spergel is building on the many failures and few successes of past gang intervention programs. Based on his experience in this field, he is careful not to set his sights too high. He is not trying to eliminate gangs, nor is he trying to turn them into peaceful entities. Such efforts have been tried, and they have almost always failed. Instead, his program focuses on individual gang members who have violent histories, uses simple tools such as jobs, education, and personal attention, and emphasizes community involvement and cooperation in the effort.

Gang intervention is an inexact science and any success is usually accompanied by heartbreaking failures. However, there is some indication that this approach is working where others have failed. In the 2 years prior to the start of the project, there were 15 gang-related homicides in Little Village, compared to 8 such homicides in the 2 years that followed. Aggravated assaults in Little Village rose 19.4 percent, but skyrocketed 291 percent in a nearby neighborhood with the same profile during the same time period. While these are not the kind of statistics that make headlines, in the complicated effort to reduce violence, they are indeed promising.

But these statistics don't tell the story of this program's success as well as the individual examples of the young people it has helped. By the age of 19, Guillermo Gutierrez had already survived two stabbings and a shooting, and was a suspect in a drive-by shooting. Before he met Marilu Gonzalez, who runs a new community group called Neighbors against Gang Violence formed by the Gang Violence Reduction Project, Guillermo believed there was nothing anyone could do for him. One year later, he has earned his high school equivalency certificate. Even more importantly, he has discovered his community. Guillermo volunteers as a tutor for elementary school children and at an AIDS prevention project.

Although Guillermo's story is an example of one of the successes of this program, it is a qualified success. Guillermo recently began a 6-year prison sentence for attempted murder from a nonfatal drive-by shooting he committed before he began participating in Professor Spergel's project. Many would consider Guillermo a lost cause. Yet, the day after his sentence, Guillermo spent 8 hours volunteering at community service projects.

The story of Little Village is an important lesson for everyone concerned about violence. The causes of violence are complex, and no single approach will solve the problem. We should not expect violence reduction programs to produce miraculous changes in troubled communities. We should, however, continue to provide the seed money for innovative programs such as the Gang Violence Reduction Project. I ask that the full text of the article be printed in the RECORD.

The article follows:

[From the Chicago Tribune, June 5, 1995]

GIVING GANG MEMBERS OPTIONS, NOT THREATS

(By George Papajohn)

''There's nothing you can do for me.''

Meeting the cold glare of the young gangbanger issuing this challenge, Marilu Gonzalez had little reason to doubt him.

For his part, Guillermo Gutierrez, a dropout, a heavy drinker, a survivor of two

stabbings and one shooting and the suspect in a drive-by shooting, had plenty of reasons to believe no adult could help him—or would want to.

A year later, with Gonzalez's help, Gutierrez can smile at his insolence. He has earned his high-school equivalent certificate, given up drinking and immersed himself in a series of community service projects. When he talks to Gonzalez, he exudes sincerity, not hostility.

''I want to study till my brains fall out,'' says the 20-year-old, who quit high school his sophomore year and still has a bullet in his ankle from a gang shooting.

And those days of gangbanging still haunt Gutierrez. On Monday, he's set to begin a six-year prison term for attempted murder from a non-fatal drive-by shooting last summer, committed before he put his trust in Gonzalez.

It took an unusual program focusing on the seemingly intractable problem of gangs—and making some demonstrable inroads—to bring Gutierrez and Gonzalez together.

For three years, University of Chicago researchers, Chicago police, youth counselors and community activists like Gonzalez have been trying to reduce gang violence in the Little Village neighborhood by refusing to believe that hard-core gang members like Gutierrez are beyond help.

Although the changes in Gutierrez seem stunning, they can be traced to a careful plan laid out by one of the nation's foremost experts on gangs, U. of C. professor Irving Spergel, who is trying to build on the many failures and the too few successes of past gang intervention programs.

Spergel has no illusions of eliminating gangs in Little Village, a working-class enclave of Mexican-Americans on the Southwest Side. That would be unrealistic, and Spergel, 71, has studied gangs for too long to be naive.

His project is not trying to turn the two targeted gangs—the Latin Kings and the Two-Six, both with decadeslong histories of violence—into peaceful entities. That has been a proven recipe for disaster, often serving only to strengthen a gang's organizational structure. Instead, the youth workers try to change individual gang members who seem the most prone to violence.

And the project is not aimed at forging gang truces or holding peace summits. That's far too showy and superficial. Instead, it relies on solutions that are startlingly simple: jobs, education and personal attention.

But while the name of the federally funded program—The Gang Violence Reduction Project—is mundane, its goals are lofty.

Few gang programs across the country can claim to make a difference. Fewer still can prove it through rigorous evaluation.

''You can't wipe out gang violence,'' Spergel said. ''But it looks like something we're doing is working.''

He thinks he now has the statistics to back him up.

In the two years prior to the start of the project in August 1992, labeled Time I, there were 15 gang-related homicides. In the two years that followed, Time II, there were eight.

Gang-related aggravated batteries and aggravated assaults are up, but at nowhere near the pace of similar areas such as Pilsen, another Latino neighborhood with a longstanding gang problem. For instance, aggravated assaults in Little Village rose 19.4 percent but skyrocketed 291 percent in Pilsen.

Researchers also surveyed 86 gang members to estimate the number of violent incidents they were involved in during Time I and Time II. The average dropped from 26 to 11.

What's clear is that progress in Little Village has to be measured in small increments. Gangs still have a strong grip on the community and its youths, and gang involvement in drug dealing is rising. Little Village still has a very big gang problem.

Some local observers, however, say the neighborhood now has something it didn't have two years ago; a blueprint for change, sense of purpose and a glimmer of hope.

''From the outside it might seem like it's status quo, but you don't realize how many lives have been touched,'' said Romero Brown, director of the Boys and Girls Club in Little Village.

One of Spergel's tenets is the need for a community to marshal all its resources in an effort to redirect gang members.

That has meant that the youth counselors supervised by the university come from the neighborhood and probably still have friends in the gang; it has meant the formation of a new community group run by Gonzalez, Neighbors Against Gang Violence; and it has meant developing a better relationship with police and probation of officers.

The youth workers often are the catalysts. One of their responsibilities is to alert police of impending gang attacks.

''We'll let the cops know if there's a planned retaliation,'' Spergel said. ''The police will be out there to prevent it.''

A more important and subtle duty, though, is for youth workers to gain the trust of gang members and refer them to Gonzalez. These workers hook gang members up with jobs, get them back into school and even refer them for psychological counseling.

Two tactical officers assigned to the area also have gone out of their way to get to know the gang members. They advise the youth workers on who are the best candidates for change. They're still looking to bust the bad guys, but they also are more willing than in the past to identify the good kid gone astray—and they'll encourage a gang member to call Gonzalez or one of the youth workers if he or she needs help.

From the youth worker's perspective, the idea is to give the gang member options, not lectures or ultimatums to leave the gang.

''We don't talk about that,'' said Javier Avila, 26, field supervisor for the three youth workers and a longtime neighborhood resident. ''That will happen in time if we do what we're supposed to do.''

Said Brown of the Boys Club: ''You can't go in and say, 'I'm going to save you.' You have to help them be able to see things for themselves.''

In the last year, as new worlds have opened up to him, Gutierrez has learned there's more to life than the street corner. He traveled to Boston for training in the national youth service program and has worked on City Year, the national youth service program, on various community projects throughout Chicago.

But his life still is in transition. When pressed, he said he still considers himself a gang member, but not a gangbanger—somebody out wreaking havoc in the community.

There's no single way to measure whether a gang member has turned his or her life around. But here's one piece of evidence in Gutierrez's case: The day after he appeared in court to plead guilty and receive his sentence, he showed up at 8 a.m. for his City Year project. The next eight hours would be split between an AIDS prevention project and tutoring grammar-school children.

Gutierrez resisted the temptation to stay home and nurture his anger about the prison sentence.

''I'd rather come here,'' he said. ''It's important to me. if I stop doing this, I'm going to get the mentality that I used to have—screw the world, nobody cares, I ain't going to make a difference.''

In prison, he said, he hopes he can begin earning college credits. But he also knows that, depending on the prison he is assigned to, gangs may continue to have a heavy influence on his life.

All involved in the program have learned, if they didn't suspect it already, that gang intervention is an inexact science.

''You've got to assume that no one approach will work,'' Spergel said. ''Sometimes a guy get a job and has extra money and uses it to buy more weapons.''

Avila told the story of another youth who was enrolled in the same service program that helped Guiterrez adopt his new outlook. That youth is no longer in the program or in Little Village, having been arrested in Texas in December on charges of smuggling drugs from Mexico.

Avila and Gonzalez took that youth's fall from grace personally. They had believed he was making progress and had invested long hours to help him, sometimes searching the streets late at night to find out where he was.

Now, they believe he probably was using them, and they hope they've gained some wisdom from the experience.

''That's the most important thing you learn—who's conning you and who isn't,'' Avila said.

Even though the program targeted about 200 gang members three years ago for intervention, some were unreachable and never were referred for jobs or training. Within the past several months, two of those gang members have been charged with murder.

Spergel still is compiling an important piece of the project's evaluation: a before-and-after comparison of 140 gang members based on court and police records.

Even without knowing the results of the Little Village project, the U.S. Justice Department has been impressed enough by Spergel to finance similar programs in five cities, including Bloomington, Ill., as a test of his theories.

The programs, set in cities with emerging gang problems, will be launched later this summer. Like the Little Village program—which also is getting federal funding, funneled through the Illinois Criminal Justice Information Authority and the Chicago police—the price tag is about $500,000 a year.

Gonzalez slowly has been acquiring government grants so that once Spergel finishes his work in Little Village several months from now, the gang program can continue.

There's still plenty she thinks can be done for the gang youths.

''They are in many ways lost individuals,'' said Gonzalez, a mother of three. ''They are individuals very desperately seeking something.''●

DANISH CREAMERY ASSOCIATION

● Mrs. BOXER. Mr. President, 1995 marks the 100th anniversary of the founding of the Danish Creamery Association, the oldest continually operated farmer-owned dairy cooperative in the United States.

In 1895, farmers around Fresno, CA sought to provide a better market for locally produced milk and to provide the Fresno area with quality butter. The Danish Creamery Association has been the distributor of dairy products to innumerable dairy producers for generations. Their products are nationally and internationally recognized for their high quality and taste.

The Danish Creamery Association has been at the forefront of the advancement of dairy technology and has

provided leadership in the promulgation of State and national programs for the betterment of an industry which has, in the last few decades, bolstered the economy of California and the United States due to its continuously high employment rates.

I congratulate and acknowledge the fine work accomplished by the Danish Creamery Association in the last century, and I am confident that it will continue to serve the central valley, California, and the United States with its fine products for years to come.●

COMMANDER MICHAEL W. LORD

● Mr. COATS. Mr. President, I rise today to recognize and honor Comdr. Michael W. Lord, Judge Advocate General's [JAG] Corp, U.S. Navy, as he retires upon completion of 20 years of faithful service to our Nation on July 1, 1995.

Upon his retirement Commander Lord will be leaving the Secretary of Navy's Office of Legislative Affairs where for the past 3 years he has served with distinction as the primary liaison point between the Navy and the Congress on some of the Navy's most critical issues, to include all issues involving Navy personnel, recruiting, military health care, and the Naval Academy.

Commander Lord, a native of North Adams, MA, graduated from the U.S. Naval Academy in 1975. He was commissioned an ensign and served on U.S.S. *Marathon* (PG–89) as the engineering and weapons officer. Following decommissioning of the *Marathon*, Commander Lord served on U.S.S. *Hewitt* (DD–966) as fire control officer.

Commander Lord was selected to participate in the Navy's law education program, and in 1981, earned his law degree at the University of Virginia. As a Navy JAG officer, Commander Lord served as trial counsel, defense counsel and legal assistance officer at the Naval Legal Service Offices in Norfolk and Oceana, VA. In 1983, he served as the first staff judge advocate to commander, Cruiser Destroyer Group 8 where he was responsible for providing legal advice to the commander of the 42 ship group. He then served as the officer in charge of the Naval Legal Service Office Detachment in Guantanamo Bay, Cuba. In 1987, Commander Lord became the legal advisor to the commandant of midshipmen, U.S. Naval Academy. In 1990, he reported to the Military Personnel Division of the Office of the Judge Advocate General where he served as the lieutenant commander detailer until Commander Lord reported to his present position in the Office of Legislative Affairs.

Commander Lord's awards have included the Meritorious Service Medal—gold star in lieu of second, the Navy Commendation Medal—gold star in lieu of second, and the Navy Achievement Medal—gold star in lieu of second. He is authorized to wear the Overseas Service Ribbon.

Mr. President, Commander Lord has truly been a great credit to the Navy throughout his career. I know that many of my colleagues are personally aware of his hard work over the past 3 years in the Office of Legislative Affairs and his significant and direct contribution to the future readiness and success of the Naval service. It gives me great pleasure to recognize Comdr. Mike Lord and to wish him, along with his wife, Shirley, and their daughters, Tara, Kelley, and Lindsey, ''fair winds and following seas,'' as he concludes a distinguished career in the U.S. Naval Service.●

BANKING PARTNERSHIP WITH COMMUNITIES

● Mr. SIMON. Mr. President, I would like to tell my colleagues about four banks in Illinois that have joined with nonprofit firms in a partnership that creates community service projects to serve underdeveloped communities. I am pleased to recognize South Shore Bank, Uptown National Bank of Chicago, AMCORE, N.A., Rockford, and Magna Bank of Illinois for their investment in vulnerable neighborhoods. These four banks have recently been recognized by the Social Compact, an organization that promotes private sector firms working with nonprofit organizations to relieve impoverished neighborhoods.

South Shore Bank has worked in conjunction with The Neighborhood Institute [TNI]. This partnership has allowed South Shore Bank to contribute to the 71st Street Commercial Revitalization Project, an economic development strategy that targets a distressed, one mile commercial strip. The project includes restoring to use three abandoned properties, and assisting 34 small businesses with start up and development expenses. This project funded by South Shore has also created 70 jobs for local residents.

Uptown National Bank of Chicago has worked in conjunction with the Voice of the People in Uptown, Inc. This partnership has made the dream of home owning a reality for 28 lower income immigrant and minority families in the urban Chicago land area. This $2.7 million project has allowed new construction as well as rehabilitation of existing sites.

AMCORE, N.A., Rockford, has worked very closely with Zion Development Corp. [ZDC]. Through their partnership, AMCORE has construction and permanent financial loans with flexible terms available, enabling construction of 21 affordable housing units and added commercial space.

Magna Bank of Illinois has worked in conjunction with Winstantley/Industry Park Neighborhood Organization [WIPNO] to provide the capacity to meet the needs of the local residents.

These four banks have provided something to these communities that was once a dream, but now is reality. They have provided their industry with an example that I hope the rest of the banking industry will follow.●

AUTHORIZING PRODUCTION OF RECORDS BY THE SELECT COMMITTEE ON INTELLIGENCE

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of two Senate resolutions en bloc submitted earlier today by Senators DOLE and DASCHLE.

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

The clerk will state the first resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 139) to authorize the production of records by the Select Committee on Intelligence.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 139) was agreed to.

The preamble was agreed to.

The resolution with its preamble is as follows:

S. RES. 139

Whereas, the Office of the Inspector General of the Central Intelligence Agency has requested that the Select Committee on Intelligence provide it with copies of committee records relevant to the Office's pending inquiry into the accuracy and completeness of information provided by Agency officials to the intelligence oversight committees of the Congress concerning the Agency's activities in Guatemala between 1985 and 1995;

Whereas, by the privileges of the Senate of the United States and rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Vice Chairman of the Select Committee on Intelligence, acting jointly, are authorized to provide to the Office of Inspector General of the Central Intelligence Agency, under appropriate security procedures, copies of records that the Office has requested for use in connection with its pending inquiry into the provision of information by officials of the Central Intelligence Agency to the congressional intelligence oversight committees.

The PRESIDING OFFICER. The clerk will state the second resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 140) to authorize the production of records by the Select Committee on Intelligence.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 140) was agreed to.

The preamble was agreed to.

The resolution with its preamble is as follows:

S. RES. 140

Whereas, the Office of the Inspection General of the Department of Justice has requested that the Select Committee on Intelligence provide it with copies of committee records relevant to the Office's pending review of matters related to the Aldrich Ames case;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Vice Chairman of the Select Committee on Intelligence, acting jointly, are authorized to provide to the Office of Inspector General of the Department of Justice, under appropriate security procedures, copies of records that the Office has requested for use in connection with its pending review into matters related to the Aldrich Ames case.

Mr. DOLE. Mr. President, the Select Committee on Intelligence has received requests for copies of committee records from the Offices of the Inspector General of two executive branch agencies. First, the Inspector General of the Central Intelligence Agency has requested from the Committee records relevant to the Inspector General's pending inquiry into whether the congressional intelligence oversight committees where properly informed by CIA officials about the CIA's activities in Guatemala over the past 10 years.

The second request is from the Department of Justice Inspector General and concerns a review the Inspector General is conducting into matters related to the Aldrich Ames case. The Inspector General is seeking copies of transcripts of hearings, briefings, and interviews that the Senate Intelligence Committee received on the Ames case last year.

Mr. President, these two resolutions would authorize the chairman and vice chairman of the Intelligence Committee, acting jointly, to provide committee records in response to these requests, utilizing appropriate security procedures.

EXECUTIVE SESSION

NOMINATION OF JOHN P. WHITE, TO BE DEPUTY SECRETARY OF DEFENSE

Mr. CHAFEE. Mr. President, I ask unanimous consent to go into executive session to consider the nomination of John P. White to be Deputy Secretary of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the nomination.

The legislative clerk read the nomination of John P. White of Massachusetts to be Deputy Secretary of Defense.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, that any statements relating to the nomination appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The nomination, considered and confirmed, is as follows:

DEPARTMENT OF DEFENSE

John P. White, of Massachusetts, to be Deputy Secretary of Defense.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR THURSDAY, JUNE 22, 1995

Mr. CHAFEE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:30 a.m., on Thursday, June 22, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business until the hour of 9:30 a.m., with Senators to speak for up to 5 minutes each, with the exception of the following: Senator DORGAN, 10 minutes, Senator COATS, 20 minutes, and Senator THOMAS, 30 minutes; further, that at the hour of 9:30 the Senate resume consideration of S. 440, the highway bill.

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

PROGRAM

Mr. CHAFEE. For the information of all Senators, the Senate will resume consideration of the highway bill tomorrow at 9:30.

Rollcall votes can be expected on or in relation to amendments to the highway bill, however there will be no rollcall votes prior to 11:30 a.m., on Thursday. Senators are also reminded at 12 noon the Senate will resume debate on the nomination of Dr. Foster, with a cloture vote occurring on the nomination at 2 p.m. Also to alert Members following the cloture vote and completion of highway bill, it is the intention of the majority leader to turn to the consideration of S. 240, the securities bill.

I would point out, therefore, under this agreement, if we are not completed with the highway bill, which I do not think we will, because we only have half an hour for votes between 11:30 and 12. Therefore, after the cloture vote at 12 o'clock on Dr. Foster, we will be returning to the highway bill for some time. I hope not too long.

Mr. FORD. Mr. President, will the distinguished Senator yield for a question? Did I understand him to say that following the disposition of the cloture vote on Dr. Foster, however that turns out, that we move back, then, to the highway bill?

Mr. CHAFEE. That is right.

Mr. FORD. What about S. 240?

Mr. CHAFEE. The agreement between the leaders reads as follows, "That following the cloture vote and the completion of highway bill . . . ."

Mr. FORD. All right.

Mr. CHAFEE. So, those things will be done before moving to the consideration of S. 240, the securities bill.

Mr. FORD. I wanted to be sure about that. There was some discussion earlier that we might set the highway bill aside and go to S. 240. I thought it would be much better to finish the highway bill and then go to S. 240.

Mr. CHAFEE. The Senator's wishes are attained, because the agreement clearly says, "will complete the highway bill." I hope it will not take too long.

Mr. FORD. I thank the Senator.

RECESS UNTIL 8:30 A.M. TOMORROW

Mr. CHAFEE. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 10:06 p.m., recessed until Thursday, June 22, 1995, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 21, 1995:

PEACE CORPS

MARK D. GEARAN, OF MASSACHUSETTS, TO BE DIRECTOR OF THE PEACE CORPS, VICE CAROL BELLAMY, RESIGNED.

DEPARTMENT OF STATE

WILLIAM H. ITOH, OF NEW MEXICO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF THAILAND.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

JOHN T. CONWAY, OF NEW YORK, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 1999. (REAPPOINTMENT.)

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. RICHARD E. HAWLEY, 000–00–0000

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be lieutenant colonel

STEVEN J. AUSTIN, 000–00–0000
SAMUEL V. CROUSE, 000–00–0000
ANDREW W. DUNN, 000–00–0000
HENRY ESPOSITO, 000–00–0000
ROBERT J. FELDMAN, 000–00–0000
ARTHUR L. FITTERER, 000–00–0000
RICHARD A. HATCH, 000–00–0000
KENNETH R. HOVATTER, 000–00–0000
RICHARD A. MANNING, 000–00–0000
MICHAEL L. MCGUIRE, 000–00–0000
JOHN M. NARRON, 000–00–0000
GARY S. RATTRAY, 000–00–0000
ROBIN D. ROBIDEAUX, 000–00–0000

STUART C. SCHIELA, 000–00–0000
THOMAS E. SINCLAIR, 000–00–0000
JAMES D. STALEY, 000–00–0000
LUCY K. YARBROUGH, 000–00–0000

LINE OF THE AIR FORCE

To be major

RICKEY B. BENNETT, 000–00–0000
ERIC R. BRENKERT, 000–00–0000
KENNETH F. CAREY, 000–00–0000
FREDERICK L. COWLES, 000–00–0000
JAMES K. COX, 000–00–0000
EDWARD M. CZAPSKI, 000–00–0000
GREGORY E. DAVIS, 000–00–0000
MORGAN R. DEANE, JR., 000–00–0000
MICHAEL C. DERESHKEVICH, JR., 000–00–0000
GARY T. FULTON, 000–00–0000
WONZIE L. GARDNER, JR., 000–00–0000
RICHARD A. HARRIS, JR., 000–00–0000
JAMES S. HENDERSON, 000–00–0000
DEREK D. JAQUISH, 000–00–0000
KAREN C. JORDAN, 000–00–0000
MARK A. MERKEL, 000–00–0000
DAVID J. MEYER, 000–00–0000
ROBERT E. PANNONE, JR., 000–00–0000
TILLMAN W. PAYNE III, 000–00–0000
LUIS A. VARGAS, 000–00–0000
ANDY D. ROGERS, 000–00–0000
MARK W. WESSON, 000–00–0000
ARTHUR J. WOOD III, 000–00–0000

BIOMEDICAL SCIENCES CORPS

To be major

YVONNE SANTIAGEO, 000–00–0000

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN THAT INDICATED.

LINE OF THE AIR FORCE

To be captain

RALPH W. EMERSON III, 000–00–0000
DAWN C. STUBBS, 000–00–0000

THE FOLLOWING-OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8067, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED.

MEDICAL CORPS

To be colonel

ANGELO J. FREDA, 000–00–0000
ROLANDO SANTAANA, 000–00–0000

MEDICAL CORPS

To be lieutenant colonel

DAVID L. BROWN, 000–00–0000
PHILIP J. DUCHAMP, 000–00–0000
MARY E. GABRIEL, 000–00–0000
JOAN R. GRIFFITH, 000–00–0000
JULIAN C. LEVIN, 000–00–0000
MICHAEL C. MERWIN, 000–00–0000
PAUL E. MORTON, 000–00–0000
STANLEY H. STANCIL, 000–00–0000
RODGER D. VANDERBEEK, 000–00–0000
HOWARD D. WILCOX, 000–00–0000
CHARLES D. WILLIAMS, 000–00–0000
RICHARD S. WILLIAMS, 000–00–0000

MEDICAL CORPS

To be major

ROBERT M. KRUGER, 000–00–0000
ROBERT J. MEDELL, 000–00–0000

DENTAL CORPS

To be lieutenant colonel

DAVID G. CHARLTON, 000–00–0000
DAVID E. CORMAN, 000–00–0000
BRUCE A. KENNEDY, 000–00–0000
EDWARD P. KISS, 000–00–0000
GREGORY G. LANGSTON, 000–00–0000
JOHN F. LEWIS, 000–00–0000
RONALD G. NELSON, 000–00–0000

To be major

MICHAEL P. CUNNINGHAM, 000–00–0000
RANDALL C. DUNCAN, 000–00–0000
JACK H. LINCKS, 000–00–0000
JEFFREY A. STAPLES, 000–00–0000

To be captain

RONALD A. ABBOTT, 000–00–0000
DEAN H. WHITMAN, 000–00–0000

NURSE CORPS

To be colonel

MARILYN C.A. FLORO, 000–00–0000

THE FOLLOWING INDIVIDUALS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, IN GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 12203, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8067, TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be lieutenant colonel

RENE J. SANCHEZ, 000–00–0000
BURTON L. THOSEN, 000–00–0000

THE FOLLOWING AIR FORCE OFFICER FOR APPOINTMENT AS PERMANENT PROFESSOR, U.S. AIR FORCE ACADEMY UNDER THE PROVISIONS OF SECTION 9333 (B), TITLE 10, UNITED STATES CODE.

LINE OF THE AIR FORCE

To be colonel

SAMUEL L. GRIER, JR., 000–00–0000

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR APPOINTMENT IN THE REGULAR AIR FORCE IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION IN ACCORDANCE WITH SECTION 8067 OF TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED.

MEDICAL CORPS

To be lieutenant colonel

VINCENT F. CARR, 000–00–0000

DENTAL CORPS

To be lieutenant colonel

BRADFORD W. CHRISTENSON, 000–00–0000
STEVEN J. NEVINS, 000–00–0000

To be major

ROBERT F. GAMBLE, 000–00–0000
MICHAEL W. MARTIN, 000–00–0000

THE FOLLOWING-NAMED INDIVIDUAL FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, IN GRADE INDICATED, UNDER SECTIONS 12203 AND 8067 OF TITLE 10, UNITED STATED CODE, WITH A VIEW TO DESIGNATION TO PERFORM THE DUTIES INDICATED.

NURSE CORPS

To be lieutenant colonel

ROBERT C. AHRENS, 000–00–0000

THE FOLLOWING UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES CLASS OF 1995 OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE IN THE GRADE OF CAPTAIN, EFFECTIVE UPON GRADUATION IN ACCORDANCE WITH SECTION 2114 OF TITLE 10, UNITED STATES CODE.

MEDICAL CORPS

To be captain

SCOTT A. HARTWICH, 000–00–0000
CHARLES A. TUJO, 000–00–0000

THE FOLLOWING OFFICERS FOR PROMOTION AS RESERVES OF THE AIR FORCE, UNDER THE PROVISIONS OF SECTIONS 12203, 8366, AND 8372, OF TITLE 10, UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8372 AND CONFIRMED BY THE SENATE UNDER SECTION 12203 SHALL BEAR AN EFFECTIVE DATE OF 10 MARCH 1995 AND PROMOTIONS MADE UNDER SECTION 8366 SHALL BE EFFECTIVE UPON COMPLETION OF 7 YEARS OF PROMOTION SERVICE AND 21 YEARS OF TOTAL SERVICE, UNLESS A LATER PROMOTION EFFECTIVE DATE IS REQUIRED BY SECTION 8372(C), OR THE PROMOTION EFFECTIVE DATE IS DELAYED IN ACCORDANCE WITH SECTION 8380(B) TO TITLE 10.

CHAPLAIN CORPS

To be lieutenant colonel

RICHARD C. BEAULIEU, 000–00–0000
THOMAS C. BLAIR, 000–00–0000
GAYLEN MEL BUCKLEY, 000–00–0000
WALTER W. COMBS, 000–00–0000
JOHN M. DONNELLY, 000–00–0000
LAWRENCE M. PENZES, 000–00–0000
LARRY V. STAIR, 000–00–0000
DAVID E. STINE, 000–00–0000

JUDGE ADVOCATE

To be lieutenant colonel

RUCHARD K. BOWERS, JR., 000–00–0000
SUSAN E. BOWMAN, 000–00–0000
EDWARD E. ESRICK, 000–00–0000
DONALD R. FITCH, 000–00–0000
RUSSELL A. FRIEMEL, 000–00–0000
JACK W. GRADY, 000–00–0000
GREGORY P. HOLDER, 000–00–0000
BRUCE A. HUTTON, 000–00–0000
LANNETTE J. MOUTOS, 000–00–0000
OMAR T. OJEDA, 000–00–0000
LOREN S. PERLSTEIN, 000–00–0000
ALBERT H. PETTIGREW, JR., 000–00–0000
THOMAS J. REES, 000–00–0000
BEVERLLY M. RYALL, 000–00–0000
RONALD W. SCHMIDT, 000–00–0000
MERRILL R. STREINER, 000–00–0000
DOUGLAS J. THIESEN, 000–00–0000
FRANCINE WEAKER, 000–00–0000

IN THE NAVY

THE FOLLOWING-NAMED LIEUTENANTS IN THE LINE AND STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF LIEUTENANT COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 628, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

LIMITED DUTY OFFICER (LINE)

To be lieutenant commander

KENNETH V. KOLLERMEIER, 000–00–0000

MEDICAL SERVICE CORPS

To be lieutenant commander

TERRY L. BUTLER, 000–00–0000

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

MEDICAL SERVICE CORPS

To be lieutenant colonel

ANDERSON, DENISE J., 000–00–0000
BERTE, STEPHEN B., 000–00–0000
BIRDSALL, GREGORY L., 000–00–0000
BRIGGS, BURTON F., 000–00–0000
BROWN, THOMAS A., 000–00–0000
BROWN, WILLIAM D., 000–00–0000
BUCHWALD, DONALD R., 000–00–0000
*BUTLER, BARCLAY P., 000–00–0000
BZDULA, EDWARD F., 000–00–0000
*BZDULA, MARY J., 000–00–0000
CARLISLE, MICHAEL A., 000–00–0000
CHAPIN, MARK G., 000–00–0000
CHEWNINGKULICK, BRE, 000–00–0000
COKER, DENNIS E., 000–00–0000
CROMARTIE, JAMES A., 000–00–0000
DECESARE, MICHAEL N., 000–00–0000
DENNIS, CHRISTINE R., 000–00–0000
DRABCZUK, GARY S., 000–00–0000
DUBAY, ROBERT C., 000–00–0000
DUDEVOIR, DOUGLAS R., 000–00–0000
EKWURZEL, KARI, 000–00–0000
FORNEY, JOHN R., 000–00–0000
FRASSO, JOHN J., 000–00–0000
*FRIEDL, KARL E., 000–00–0000
GALLAGHER, KEITH W., 000–00–0000
GARIBALDI, PETER M., 000–00–0000
GIDWANI, PRADEEP G., 000–00–0000
GRANGER, MATHEW S., 000–00–0000
GRANT, EARL JR., 000–00–0000
GUNNELL, VAUN F., 000–00–0000
GUPTON, HERBERT M., 000–00–0000
HABIB, DAVID A., 000–00–0000
HOLMES, KEITH H., 000–00–0000
JONES, DAVID L., 000–00–0000
KAMINSKI, MICHAEL S., 000–00–0000
KURMEL, THOMAS D., 000–00–0000
*LEU, JOHN R., 000–00–0000
*LEWIS, GORDON A., 000–00–0000
*LIPNICK, ROBERT J., 000–00–0000
LYFORD, MARK A., 000–00–0000
MABE, MARYANN P., 000–00–0000
MC COLLUM, DENISE M., 000–00–0000
MODROW, HAROLD E., 000–00–0000
MONTGOMERY, MICHAEL, 000–00–0000
NIMMER, ELIAS G., 000–00–0000
NORRIS, GARY C., 000–00–0000
NOVAK, WILLIAM R., 000–00–0000
ORTHNER, WALTER H., 000–00–0000
PARKER, KEITH B., 000–00–0000
PEDUTO, DAVID B., 000–00–0000
PIERSON, JEROME F., 000–00–0000
PIERSON, LINDA L., 000–00–0000
PITTMAN, JAMES O., 000–00–0000
RICKARD, JAMES H., 000–00–0000
RILEY, PATRICK E., 000–00–0000
RINEHART, CARMEN L., 000–00–0000
RUSSELL, KENNETH E., 000–00–0000
*SAFFLE, PAULETTE E., 000–00–0000
SANDERS, PHILLIP G., 000–00–0000
SANFORD, EDWARD J., 000–00–0000
SAWYERS, MICHAEL C., 000–00–0000
SCHWENK, BEVERLY A., 000–00–0000
SEES, RALPH H., 000–00–0000
SHAMBLEY, JOYCE H., 000–00–0000
SHEAFFER, ALAN W., 000–00–0000
SIGNAIGO, JETTAKA M., 000–00–0000
STARCHER, JAMES A., 000–00–0000
STOCKER, VIKKI L., 000–00–0000
THOMAS, LEWIS E., 000–00–0000
TURGEON, DAVID K., 000–00–0000
TURNER, BETTY E., 000–00–0000
VANHAMONT, JOHN E., 000–00–0000
WAINRIGHT, CHARLES, 000–00–0000
WARD, CHARLES D., 000–00–0000
WATSON, RALPH R., 000–00–0000
WEICKUM, RICKE J., 000–00–0000
WHITCOMB, JAMES P., 000–00–0000
WILLIAMS, CALVIN E., 000–00–0000
WILLIAMS, THOMAS J., 000–00–0000
WITTMAN, THOMAS E., 000–00–0000

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

ALLISON, STEPHEN C., 000–00–0000

BERTHOLD, DEBRA D., 000–00–0000
FORMAN, BRENDA J., 000–00–0000
HEETER, JAMES P., 000–00–0000
*HEETER, PATRICIA A., 000–00–0000
ITO, MAX A., 000–00–0000
*PAULUS, DUANE K., 000–00–0000
STRUTH, RAYMOND J., 000–00–0000
*TINGLE, JANET A., 000–00–0000
WASSERMAN, CAROL G., 000–00–0000
WISH, KAREN W., 000–00–0000

VETERINARY CORPS

To be lieutenant colonel

BANFIELD, CATHERINE, 000–00–0000
*LECLAIRE, ROSS D., 000–00–0000
*NOSSOV, PATRICIA C., 000–00–0000
*PRATT, WILLIAM D., 000–00–0000
*VOGEL, ALFRED P., 000–00–0000
WILLIAMSON, DALE L., 000–00–0000
*YANOFF, SUSAN R., 000–00–0000
*ZAUCHA, GARY M., 000–00–0000

ARMY NURSE CORPS

To be lieutenant colonel

AGBAH, VINCENTIA A., 000–00–0000
ANDERSON, DOROTHY A., 000–00–0000
ANDERSON, LINDA H., 000–00–0000
BATES, MARGARET A., 000–00–0000
BAXTER, ROGER D., 000–00–0000
BITHER, MARK H., 000–00–0000
BOONE, PATRICIA M., 000–00–0000
BRILES, STEPHEN A., 000–00–0000
*BROSCH, LAURA R., 000–00–0000
BROWN, DEBRA L., 000–00–0000
BRUNO, BARBARA J., 000–00–0000
CAMPANARO, JOAN M., 000–00–0000
CISCO, EARLDINE S., 000–00–0000
CLARK, MARY C., 000–00–0000
COOK, HELEN C., 000–00–0000
*CORDIER, PATRICIA L., 000–00–0000
CRAWFORD, JENNIFER., 000–00–0000
CRUMP, RICHARD W., 000–00–0000
DABBS, RICHARD P., 000–00–0000
DOWELL, CARYL J., 000–00–0000
*DRIVER, CAROLYN E., 000–00–0000
ETTIPIO, ANTHONY M., 000–00–0000
*FERSTER, KENNETH L., 000–00–0000
*FINNICUM, BRENDA G., 000–00–0000
*FITZPATRICK, JUDITH., 000–00–0000
*FOERSTER, LILLIAN A., 000–00–0000
FORESTER, HOLLY D., 000–00–0000
*GABBARD, MARY L., 000–00–0000
GALLIMORE, CAROLE E., 000–00–0000
*GAMBLE, DELOIS H., 000–00–0000
GARRETT, NORMALYNN., 000–00–0000
*GAUBATZ, CARYL L., 000–00–0000
*GERTONSON, STEVEN F., 000–00–0000
GILMORE, LEE N., 000–00–0000
GOLDSBY, BOYD D., 000–00–0000
HAMMOND, EDITH K., 000–00–0000
*HARGIS, FRANCES M., 000–00–0000
HAYES, PATRICIA A., 000–00–0000
HEASTON, STEVEN E., 000–00–0000
HECTOR, BARBARA J., 000–00–0000
HELMINIAK, JOSEPH J., 000–00–0000
*HOLLANDSWORTH, JOAN., 000–00–0000
HOWELL, LADONNA N., 000–00–0000
JANOSIK, LUISA M., 000–00–0000
JOHNSON, DORIS T., 000–00–0000
KRUPP, CHRISTOPHER., 000–00–0000
KUCINSKIS, CLAUDE A., 000–00–0000
*LARIOSA, REYMUNDO J., 000–00–0000
*LEDERER, PATTI A., 000–00–0000
*LEE, RUTH E., 000–00–0000
*LIGGETT, BARBARA A., 000–00–0000
MATTERN, EDWARD G., 000–00–0000
MC COWEN, ANITA H., 000–00–0000
*MEADOWS, YOUNG B., 000–00–0000
MILLER, THOMAS H., 000–00–0000
MONTZ, LINDA A., 000–00–0000
MORGAN, KEITH L., 000–00–0000
NEELY, CONSTANCE B., 000–00–0000
NGAI, GORDON., 000–00–0000
O'DONNELL, TAMARA D., 000–00–0000
O'LEARY, KATHLEEN M., 000–00–0000
PATRICK, JOE L., 000–00–0000
*PAUL, HARRIET M., 000–00–0000
*PENISTON, JUDY B., 000–00–0000
*PIPER, CHRISTINE M., 000–00–0000
PIXTON, WILLIAM T., 000–00–0000
ROBINSON, SANDRA M., 000–00–0000
*SAPONARI, GARY L., 000–00–0000
SMITH, SANDRA L., 000–00–0000
SOLVESON, DENISE M., 000–00–0000
STAMP, VICKIE B., 000–00–0000
*THIBODEAUX, BARRY L., 000–00–0000
ULLMANN, DIANE K., 000–00–0000
*UNDERWOOD, BYRON D., 000–00–0000
*VANDERLAAN, JOAN K., 000–00–0000
*VANEVERA, EDITH A., 000–00–0000
VAUSE, MARY C., 000–00–0000
*VOEPEL, LEO F., 000–00–0000
VOYLES, RANDALL L., 000–00–0000
*WEBSTER, LINDA A., 000–00–0000
WIGGINS, JANNIFER E., 000–00–0000
WINBUSH, CAROLYN J., 000–00–0000
WOOTTON, MARK T., 000–00–0000
WORTMAN, JOAN S., 000–00–0000
YOUNGMCCAUGHAN, STA., 000–00–0000

CONFIRMATION

Executive nomination confirmed by the Senate June 21, 1995:

DEPARTMENT OF DEFENSE

JOHN P. WHITE, OF MASSACHUSETTS, TO BE DEPUTY SECRETARY OF DEFENSE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.