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Senate

The Senate met at 12 noon, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Holy God, may our reverence for You give us authentic respect for people, the world You have entrusted to us to care for, and the values and traditions that are sacred in America's history which we are called to revere.

Dear God, we learn about the character pillar of respect from You. You created us and respect our uniqueness. You give us esteem and security and help us live at full potential. We know we are of value to You. Help us to communicate respect for the dignity of other people. May we respect their gifts and talents, and encourage them to be all that You created them to be. Make us defenders of the rights of people to be distinctive, to honor differences of race and religious practices.

Lord, we also pray for the character pillar of respect to be expressed in the way we live in Your creation. May we behold and never destroy the beauty of the natural world You've given us to enjoy.

Sovereign of this Nation, remind us that patriotism has not gone out of style. May our gratitude for living in this free land give us profound respect for the Constitution, our flag, and the genuine American spirit of mutual respect for the rights of individuals to life, liberty, and the pursuit of happiness.

Today we pray specifically for Geri Meagher, friend and fellow worker here in the Senate Chamber, as she undergoes surgery. Bless her and heal her. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

Mr. KYL. Thank you, Mr. President.

SCHEDULE

Mr. KYL. Mr. President, today the Senate will be in for a period of morning business until 12:30 p.m. At 12:30 p.m., we hope the Senate will be receiving the continuing resolution from the House. If that is the case, then debate will begin immediately in the Senate. As always, Members will be notified when the vote on the continuing resolution is scheduled.

In addition, the Senate may turn to any appropriations conference reports that may become available. As a reminder to all Members, a cloture motion was filed last evening on the ISTEA legislation. Therefore, all second-degree amendments must be filed prior to the vote on Thursday. All Senators will be notified as to when that cloture vote will occur on Thursday.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KYL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. 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

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business.

RECOGNITION OF LIZ HEASTON

Mr. GORTON. Mr. President, I would like to recognize the historic achievements of Liz Heaston of Richland, WA. Last Saturday, Liz became the first woman to play in a college football game. Her performance as place kicker for the Willamette University football team resulted in kicking two extra points in a victorious effort against Linfield College. This event also strikes a special chord for me because Liz is the daughter of Suzanne Heaston, a member of my State staff in Richland, WA.

What is equally amazing about this young woman's accomplishments last Saturday is that her feat was accomplished after playing a full soccer game, where she is the star defender on the Willamette University women's soccer team, ranked 14th nationally in the NAIA. It was Liz's tremendous abilities on the soccer field which led the Willamette football coaching staff to recruit Liz onto the football field.

While Liz may not have a future football career ahead of her, Saturday's milestone sets a tremendous precedent for future trailblazers in womens sports. The athletic accomplishments of Liz Heaston, both in soccer and football, reinforce the role sports can play in helping our daughters discover and realize their potential both on and off the athletic field.

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

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

JAMES D. WOLFENSOHN OF THE WORLD BANK GROUP

Mr. STEVENS. Mr. President, not many Americans—in fact not many human beings—have the opportunity to bring about permanent change in our world. Even if a person has the opportunity, it is seldom that change can be brought about in a time span of only 3 years. A distinguished exception to this is the president of the World Bank Group, James D. Wolfensohn. Under

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

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President Wolfensohn's wise guidance, the World Bank Group is facilitating global changes through the application of systems and knowledge developed in the United States.

Jim Wolfensohn, formerly president and chief executive officer of his own corporation, chairman of the board of trustees of the John F. Kennedy Center for the Performing Arts, and executive partner at Salomon Bros., recently delivered his third yearly address to the board of governors of the World Bank Group.

After reading this compelling statement twice, I concluded his message should be available to all who wonder if our citizens are applying the lessons of enlightened free enterprise in their business and personal lives throughout the world. I envy Jim Wolfensohn. He is truly making a difference in this world. It is my pleasure to commend his remarks to the Senate, and I ask unanimous consent that his statement entitled ''The Challenge of Inclusion'' be printed in the RECORD.

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

THE CHALLENGE OF INCLUSION

(By James D. Wolfensohn)

I am very pleaded to welcome you to these Annual Meetings of the World Bank Group and the International Monetary Fund (IMF). I am also delighted to be in Hong Kong. This beautiful and bustling city, which I have visited regularly for forty years, exemplifies the openness, dynamism, and optimism of so much of Asia today. And so does our meeting here in this magnificent conference center, where everything has been done impeccably. I would like to express my thanks to our hosts, the government of China, and the authorities here in Hong Kong. It is impossible to imagine greater courtesy, generosity, and efficiency. We look forward to your continued progress.

China's success has been truly remarkable. Less than a generation ago, eight in ten Chinese eked out an existence by tilling the soil for less than a dollar day. One adult in three could neither read nor write. Since then, 200 million people have been lifted out of absolute poverty, and illiteracy has fallen to less than one in ten. China is our largest borrower, one of our most valued shareholders, and home to more than a quarter of our clients. I am delighted that our partnership continues to strengthen.

This is the third time that I address you as president of the World Bank Group—the third time I have the opportunity to express my deep gratitude to my friend Michel Camdessus, whose collaboration over the past two and a half years has been so invaluable to me. We work ever more closely together, and I continue to benefit from his great experience and judgment.

From the beginning, one of my priorities has been to take the pulse of development firsthand. I have now visited almost sixty countries. I have met with governments, parliamentarians, and the private sector. I have talked with national and international nongovernmental organizations (NGOs) on subjects ranging from women's issues to the environment, from health to the impact of macroeconomic reform.

Wherever I go, I continue to be impressed by the people we serve—by their strength, their energy and their enterprise, even in the most abject conditions. By the hundreds of thousands disadvantaged by war, by the millions of children without families condemned to live on the streets, by the disabled shut out from any kind of social support. By the plight of the poorest.

Today our clients number 4.7 billion people in over 100 countries. Three billion live on under 2 dollars a day. A billion three hundred million live on under 1 dollar a day. One hundred million go hungry every day; 150 million never even get the chance to go to school.

But whether they live on the plains or in the valleys, whether they live in slums or isolated villages, whether they speak Hindi, Swahili, or Uzbek, they have one thing in common: They do not want charity. They want a chance. They do not want solutions imposed from without. They want the opportunity to build from within. They do not want my culture or yours. They want their own. They want a future enriched by the inheritance of their past.

I have learned that people are the same wherever they are—here in this room and across the world. We all want the best for our children and our families. We all want peace and economic and physical security. We all want to live in a supportive community. We all want personal dignity.

This was vividly brought home to me six months ago when I visited a large water and sanitation project that the Bank is supporting in the favelas of Brazil. The project, which is now self-sustaining, brings together the local community, the private sector, and NGOs.

With my host, the vice governor of the state of Rio, I went from one makeshift home to the next, talking with the women who live there and who used to carry the water on their shoulders from the bottom of the hillside to their dwellings at the top. One after the other, they proudly showed me their running water and flushed their toilets and told me how the project had transformed their lives.

And as we walked around, more and more of the women came up to me displaying pieces of paper showing charges and receipts for a few reals a month. I watched and listened to this until the vice governor said, ''What they're showing you, Jim, is that this is the first time in their lives that their name and address have appeared on an official notice. This is the first time their existence has been officially recognized. This is the first time that they have been included in society. With that receipt they can get credit to purchase goods, with that receipt they have recognition and hope.''

As I walked back down the hill from that *favela,* I realized that this is what the challenge of development is all about—inclusion. Bringing people into society who have never been part of it before. This is why the World Bank Group exists. This is why we are all here today. To help make it happen for people.

THE STATE OF DEVELOPMENT CIRCA 1997

Where are we in terms of ''making it happen'' in 1997? In many ways, this is the *best of times* for developing countries: Output grew last year by 5.6 percent—the highest rate in twenty years. Foreign direct investment exceeded $100 billion—the most ever. Private capital flows now total $245 billion—five times official development assistance. And developing countries are projected to enjoy continued strong growth over the next ten years.

Social indicators are also improving. Life expectancy has risen more in the past forty years than in the previous four thousand. And freedom is blossoming. Today nearly two in three countries use open elections to choose their national leadership and 5 billion people live in a market economy—up from 1 billion ten years ago.

There is also much good news regionally: Reform programs in *Eastern Europe and Central Asia* continue to advance, and prospects for accession to the European Union now look promising for several countries in the region. There is real progress in *Sub-Saharan Africa,* with new leadership and better economic policies. Gross domestic product (GDP) grew 4.5 percent in 1996, up from 2 percent two years ago.

In the *Middle East and North Africa,* despite political problems, efforts continue to boost regional trade and investment, improve competitiveness, and expand economic opportunity. In *Latin America* countries have emerged from the tequila crisis, with their earlier gains against hyperinflation fully intact.

In *East Asia,* despite recent turbulence in financial markets, we still expect long-term growth and poverty reduction to be strong. And in *South Asia,* home to 35 percent of the developing world's poor, growth rates over the past several years have approached 6 percent.

This all adds up to much to celebrate—but there is also much to lament. Yes, the glass is half full, but it is also half empty. Too many people are not enjoying the fruits of success—

Here in East Asia, where, despite the ''miracle,'' inequities between rural and urban areas and between the skilled and the unskilled are becoming more widespread.

In the countries of the former Soviet Union, where the old and the unemployed have become more vulnerable amidst the turbulence caused by the transition from command to market economies.

In parts of Latin America, where problems of landownership, crime, drug-related violence, unequal access to education and health care, and enormous disparities in income hinder progress and threaten stability.

And in many of the world's poorest countries, where population growth continues to run ahead of economic growth, eroding living standards.

And the deeper tragedy is that the glass is almost totally empty for too many. Indeed, for too many, it is the *worst of times,* as huge disparities persist across and within countries.

In too many countries, the poorest 10 percent of the population has less than 1 percent of the income, while the richest 20 percent enjoys over half. In too many countries, girls are still only half as likely as boys to go to school. In too many countries, children are impaired from birth because of malnutrition, inadequate health care, and little or no access to early childhood development programs. In too many countries, ethnic minorities face discrimination and fear for their lives at the hands of ethnic majorities.

What we are seeing in the world today is the tragedy of exclusion.

THE CHALLENGE AHEAD

Our goal must be to reduce these disparities across and within countries, to bring more and more people into the economic mainstream, to promote equitable access to the benefits of development regardless of nationality, race, or gender. This—the *Challenge of Inclusion*—is the key development challenge of our time.

You and I and all of us in this room—the privileged of the developing and the industrial world—can choose to ignore that challenge. We can focus only on the successes. We can live with a little more crime, a few more wars, air that is a little bit dirtier. We can insulate ourselves from whole sections of the world for which crisis is real and daily but which to the rest of us is largely invisible. But we must recognize that we are living

with a time bomb, and unless we take action now, it could explode in our children's faces.

If we do not act, in thirty years the inequities will be greater. With population growing at 80 million a year, instead of 3 billion living on under $2 a day, it could be as high as 5 billion. In thirty years, the quality of our environment will be worse. Instead of 4 percent of tropical forests lost since Rio, it could be 24 percent.

In thirty years, the number of conflicts may be higher. Already we live in a world which last year alone saw twenty-six interstate wars and 23 million refugees. One does not have to spend long in Bosnia or Gaza or the Lakes District in Africa to know that without economic hope we will not have peace. Without equity we will not have global stability. Without a better sense of social justice our cities will not be safe, and our societies will not be stable. Without inclusion, too many of us will be condemned to live separate, armed, and frightened lives.

Whether you broach it from the social or the economic or the moral perspective, this is a challenge we cannot afford to ignore. There are not two worlds, there is one world. We breathe the same air. We degrade the same environment. We share the same financial system. We have the same health problems. AIDS is not a problem that stops at borders. Crime does not stop at borders. Drugs do not stop at borders. Terrorism, war, and famine do not stop at borders.

And economics is fundamentally changing the relationships between the rich and the poor nations. Over the next twenty-five years, growth in China, India, Indonesia, Brazil, and Russia will likely redraw the economic map of the world, as the share in global output of the developing and transition economies doubles. Today these countries represent 50 percent of the world's population but only 8 percent of its GDP. Their share in world trade is a quarter that of the European Union. By the year 2020, their share in world trade could be 50 percent more than Europe's.

We share the same world, and we share the same challenge. The fight against poverty is the fight for peace, security, and growth for us all.

How, then, do we proceed? This much we know: No country has been successful in reducing poverty without sustained economic growth. Those countries that have been most successful—including, most notably, many here in East Asia—have also invested heavily in their people, have put in place the right policy fundamentals, and have not discriminated against their rural sectors. The results have been dramatic: large private capital inflows, rapid growth, and substantial poverty reduction.

The message for countries is clear: Educate your people; ensure their health; give them voice and justice, financial systems that work, and sound economic policies, and they will respond, and they will save, and they will attract the investment, both domestic and foreign, that is needed to raise living standards and fuel development.

But another message is also emerging from recent developments. We have seen in recent months how financial markets are demanding more information disclosure, and how they are making swift judgments about the quality and sustainability of government policies based on that information. We have seen that without sound organization and supervision a financial system can falter, with the poor hurt the most. We have seen how corruption flourishes in the dark, how it prevents growth and social equity, and how it creates the basis for social and political instability.

We must recognize this link between good economic performance and open governance. Irrespective of political systems, public decisions must be brought right out into the sunshine of public scrutiny. Not simply to please the markets but to build the broad social consensus without which even the best-conceived economic strategies will ultimately fail.

THE DEVELOPMENT COMMUNITY

How can we in the broader development community be most effective in helping with the enormous task ahead?

It is clear that the scale of the challenge is simply too great to be handled by any single one of us. Nor will we get the job done if we work at cross purposes or pursue rivalries that should have been laid to rest long since. Name calling between civil society and multilateral development institutions must stop. We should encourage criticism. But we should also recognize that we share a common goal and that we need each other.

Partnership, I am convinced, must be a cornerstone of our efforts. And it must rest on four pillars.

First and foremost, the governments and the people of developing countries must be in the driver's seat—exercising choice and setting their own objectives for themselves. Development requires much too much sustained political will to be externally imposed. It *cannot* be donor-driven.

But what we as a development community can do is help countries—by providing financing, yes; but even more important, by providing knowledge and lessons learned about the challenges and how to address them.

We must learn to let go. We must accept that the projects we fund are not donor projects or World Bank projects—they are Costa Rican projects, or Bangladeshi projects, or Chinese projects. And development projects and programs must be fully owned by *local* stakeholders if they are to succeed. We must listen to those stakeholders.

Second, our partnerships must be inclusive—involving bilaterals and multilaterals, the United Nations, the European Union, regional organizations, the World Trade Organization, labor organizations, NGOs, foundations, and the private sector. With each of us playing to our respective strengths, we can leverage up the entire development effort.

Third, we should offer our assistance to all countries in need. But we must be selective in how we use our resources. There is no escaping the hard fact: More people will be lifted out of poverty if we concentrate our assistance on countries with good policies than if we allocate it irrespective of the policies pursued. Recent studies confirm what we already knew intuitively—that in a good policy environment, development assistance improves growth prospects and social conditions, but in a poor policy environment, it can actually retard progress by reducing the need for change and by creating dependency.

I want to be very clear on this point: I am not espousing some Darwinian theory of development whereby we discard the unfit by the wayside. Quite the contrary. Our goal is to support the fit and to help the unfit fit. This is all about inclusion.

In Africa, for example, a new generation of leaders deserves our strongest possible support for the tough decisions they are making; they have vast needs and a growing capacity to use donor funds well in addressing them. We must be there for them. It is an economic and a moral imperative.

However, where aid cannot be effective because of bad policy or corruption or weak governance, we need to think of new ways to help the people. not the old technical assistance approaches of the past that relied too heavily on foreign consultants. But helping countries help themselves: by building their own capacity to design and implement their own development.

Finally, all of us in the development community must look at our strategies anew.

We need that quantum leap which will allow us to make a real dent in poverty. We need to scale up, to think beyond individual donor-financed projects to larger country-led national strategies and beyond that to regional strategies and systemic reform.

We need approaches that can be replicated and customized to local circumstances. Not one agricultural project here or one group of schools there. But rural and educational country strategies that can help the Oaxacas and the Chiapas of this world, as well as the Mexico Cities.

We need to hit hard on the key pressure points for change—adequate infrastructure in key areas, social and human development, rural and environmental development, and financial and private sector development.

And we need to remember that educating girls and supporting opportunities for women—health, education and employment—are crucial to balanced development.

In the struggle for inclusion, this all adds up to a changed bottom line for the development community. We must think results—how to get the biggest development return from our scarce resources. We must think sustainability—how to have enduring development impact within an environmentally sustainable framework. We must think equity—how to include the disadvantaged. We must focus not on the easy projects but on the difficult—in northeast Brazil, in India's Gangetic Plain, and in the Horn of Africa. Projects there will be riskier, yes. But success will be worth all the more in terms of including more people in the benefits of development—and giving more people the chance of a better life.

THE WORLD BANK GROUP'S RESPONSE

How is the Bank Group responding to the Challenge of Inclusion?

Last year, I said that if the Group was to be more effective, it needed to change—to get closer to our clients' real needs, to focus on quality, and to be more accountable for the results of our work. This year, I want to tell you that it is happening. Not only is the Bank changing, but the need for change is now fully accepted.

I know—and you know—that the Bank has tried to change before. But there has never been this level of commitment and consensus. We are building on the mission statement articulated by my predecessor, Lew Preston, whose untimely death prevented him from implementing his plans.

Earlier this year, we launched an action program—the Strategic Compact—to renew our values and commitment to development and to improve the Bank's effectiveness. I believe the Compact is historic. Not because there is agreement on every paragraph of the document; but because staff, management, and shareholders—with terrific support from our Executive Directors—are now united on the future direction of the institution. And while we still have a long way to go, and while change is painful—and some people are undoubtedly feeling that pain—implementation is well under way.

I really believe that this time we can succeed. And we will succeed because of our truly remarkable and dedicated staff. I do not believe a better development team exists, or one with more experience in fighting poverty.

But the Compact is not primarily about our organization and internal change; it is about our clients and meeting their needs more effectively. To take this beyond rhetoric, we have decentralized aggressively to

the field. By the end of this month, eighteen of our forty-eight country directors with decisionmaking authority will be based in the countries they serve—compared with only three last year.

We have speeded up our response time and have introduced new products such as the single currency loan and loans for innovative projects of $5 million or less that can be implemented very quickly.

Working with Michel Camdessus and our colleagues in the IMF—as well as with many other partners—we have prepared debt reduction packages worth about $5 billion for six heavily indebted poor countries under the HIPC Initiative. Not bad for an effort that did not even have a name eighteen months ago. And we are moving speedily ahead to help other HIPC countries.

The New Bank is committed to quality.

We have put in place reinvigorated country management teams, with 150 new managers selected over the last six months, and rigorous training and professional development programs have been introduced for all staff. The International Finance Corporation (IFC) has also made major changes in management and is decentralizing to the field.

We have improved the quality of our portfolio, and as a result our disbursements reached a record level last year of $20 billion.

And the quality of all our work is being enhanced by the progress we have made toward becoming a Knowledge Bank. We have created networks to share knowledge across all regions and all major sectors of development. Our Economic Development Institute is playing a leading role in this area. Last June in Toronto, working with the Canadian government and many other sponsors, EDI brought together participants from over 100 countries, for the first Global Knowledge Conference.

My goal is to make the World Bank the first port of call when people need knowledge about development. By the year 2000, we will have in place a global communications system with computer links, videoconferencing, and interactive classrooms, affording our clients all around the world full access to our information bases—the end of geography as we at the Bank have known it.

We are also promoting increased accountability throughout the World Bank Group:

We have developed a corporate scorecard to measure our performance. We are closely monitoring compliance with our policies and are continuing to work to improve the inspection process by making it more transparent and effective. And we are designing new personnel policies that explicitly link staff performance to pay and promotion.

We are also emphasizing accountability in the dialogue with our clients. Last year, I highlighted the importance of tackling the cancer of corruption. Since then, we have issued new guidelines to staff for dealing with corruption—and for ensuring that our own processes meet the highest standards of transparency and propriety. We have also begun working with a first half-dozen of our member countries to develop anticorruption programs.

My bottom line on corruption is simple: If a government is unwilling to take action despite the fact that the country's development objectives are undermined by corruption, then the Bank Group must curtail its level of support to that country. Corruption, by definition, is exclusive: It promotes the interests of the few over the many. We must fight it wherever we find it.

But key to meeting the challenge of inclusion is making sure not only that we do things right but that we do the right things. Earlier, I mentioned the strategic pressure points of change. Let me say a few words about what we are doing in each of these areas.

Human and social development. We are mainstreaming social issues—including support for the important role of indigenous culture—into our country assistance strategies so that we can better reach ethnic minorities, households headed by women, and other excluded groups.

We are participating in programs designed by local communities to address pervasive needs, such as the EDUCO basic literacy program in El Salvador and the District Primary Education Program in India, and these programs are being replicated by other countries.

We are increasing our support for capacity-building—particularly the comprehensive program initiated by the African countries last year.

Sustainable development. In the rural sector, which is home to more than 70 percent of the world's poor, we have completed a major rethinking of our strategy. Lending is now up after many years of decline, supporting innovative programs such as the new market-based approach to land reform in Brazil.

We are also supporting our clients' efforts to address the brown environmental issues—clean water and adequate sanitation—that are so often neglected but are so important for the quality of the everyday lives of the poor.

And, through the Global Environment Facility, the Global Carbon Initiative, and a new partnership with the World Wildlife Fund to protect the world's forests, we are continuing to advance the global environmental agenda.

The private sector. We are capitalizing on the synergies between the Bank, the IFC, and the Multilateral Investment Guarantee Agency (MIGA) and are coordinating our activities under a single, client-focused service ''window.''

Across the Bank Group, we are building up our work on regulatory, legal, and judicial reform designed to help create environments that will attract foreign and domestic private capital. We are using International Bank of Reconstruction and Development (IBRD) guarantees to help support policy changes and mitigate risk, and we are expanding the product line of the International Development Association (IDA) to help poor countries develop their private sectors and become full participants in the global economy.

Meanwhile, the IFC is working in 110 countries, and in more sectors, employing more financial products than ever before. Last year saw $6.7 billion in new approvals in 276 projects. The IFC's Extending the Reach Program is targeting thirty-three countries and regions that have received very little private sector investment. Again, the goal is clear: to bring more and more marginalized economies into the global marketplace.

MIGA, too is playing an active and enhanced role. Last year it issued a record seventy guarantee contracts for projects in twenty-five developing countries, including eleven countries where it has not been active before. I am delighted that yesterday the Development Committee agreed to an increase in MIGA's capital that will allow it to continue to grow.

The financial sector. This pressure point has been brought sharply into focus by recent events in East Asia. Here too we are scaling up our work in coordination with the IMF and the regional development banks for the simple reason that when the financial sector fails, it is the poor who suffer most. It is the poor who pay the highest price when investment and access to credit dry up, when workers are laid off, when budgets and services are cut back to cover losses.

But success in the financial sector requires much more than the announcement of new policies or financial packages pulled together when crisis hits. This is why we are expanding our capacity for banking and financial system restructuring—and not just for the middle-income countries, but taking on the larger task of financial sector development in low-income countries.

For those countries, home to the world's 3 billion poorest people, IDA remains the key instrument for addressing the Challenge of Inclusion. I will be coming back to you in due course to seek your support for the twelfth replenishment of IDA.

CONCLUSION

I believe we have made considerable progress in putting our own house in order in preparation for the challenges of the new millennium.

1997 has been a year of significant achievement. We must push ahead with this process. We must make sure that we deliver next year's work program, that we strengthen the project pipeline and increase the resources going directly to the front line. And we must implement our recently completed cost-effectiveness review.

But the time has also come to get back to the dream. The dream of inclusive development.

We stand at a unique moment in history when we have a chance to make that dream a reality. Today, we have unprecedented consensus on the policies that need to be put in place for sustainable and poverty-reducing growth. Today, we have clear and unambiguous evidence of the economic and social linkages between the developing and the industrial worlds. Today, we face a future where, unless we take action, our children will be condemned to live in a degrading environment and a less secure world. All we need today is the determination to focus on tomorrow and the courage to do it now.

As a development community we face a critical choice.

We can continue business as usual, focusing on a project here, a project there, all too often running behind the poverty curve. We can continue making international agreements that we ignore. We can continue engaging in turf battles, competing for the moral high ground.

Or we can decide to make a real difference.

But to do that, we need to raise our sights. We need to forge partnerships to maximize our leverage and our use of scarce resources. And we need to scale up our efforts and hit hard on those areas where our development impact can be greatest.

We at the Bank Group are ready to do our part. But we cannot succeed alone. Only if we work together will we make a dent. Only if we collectively change our attitude will we make that quantum leap. Only if, in board rooms and ministries and city squares across the globe, we begin to recognize that ultimately we will not have sustainable prosperity unless we have inclusion, will we make it happen.

Let me end where I began: in that *favela* in Brazil: What I saw in the faces of the women there, I have also seen on the faces of women in India showing me passbooks for savings accounts. I have seen it on the faces of rural cave dwellers in China being offered new, productive land. I have seen it on the faces of villagers in Uganda, able for the first time to send their children to school because of the private profit they can now make through rural extension schemes.

The look in these people's eyes is not a look of hopelessness. It's a look of pride, of self-esteem, of inclusion. These are people who have a sense of themselves, who have a sense of tradition, who have a sense of family. All they need is a chance.

Each one of us in this room must take personal responsibility for making sure they get

that chance. We can do it. For the sake of our children, we must do it. Working together, we will do it.

TRIBUTE TO GEN. WILLIAM W. ''BUFFALO BILL'' QUINN

Mr. STEVENS. Mr. President, I call to the attention of the Senate the fact that in a few days one of our Nation's most distinguished military officers, a veteran of World War II and of the Korean conflict, will celebrate his 90th birthday.

Lt. Gen. William W. ''Buffalo Bill'' Quinn, a 1933 graduate of the U.S. Military Academy at West Point, completed Command and General Staff School the day before Pearl Harbor.

He had served as G–2 of the 7th Army, responsible for the intelligence on which the August 1944 allied landing in southern France was based when the 19th German Army was routed.

The following year he helped to liberate the survivors of the Nazi death camp at Dachau. What he saw there so horrified him that he said he would never let the world forget, so that nothing similar could happen again.

After the war, General Quinn became director of the Strategic Service Unit that was formerly known as the Office of Strategic Services. Later he was assigned to Korea where he boosted regimental morale by setting up a system for sending word of the accomplishments of individual soldiers to their hometown papers. He also served as G–2 for the daring and historic landing at Inchon.

His duties as a combat commander began when he was assigned to command the 17th Regiment in Korea, which was known as the ''Buffaloes.''

On a cold winter day in 1951, ending a report on his regiment, he said, ''Tell the old man''—and he meant by that Maj. Gen. Claude Ferenbaugh, commanding general of the 7th Division—''that Bill of the Buffaloes said everything will be all right.''

From then on, Bill Quinn became known as Buffalo Bill.

After Korea, he served for 2 years as an adviser to the Greek Army. Later he assumed command of the 4th Infantry Division at Fort Lewis, WA, and then returned to the Pentagon as the first Deputy Assistant Chief for Intelligence of the Army. In 1959, he became the Army's Chief of Public Information.

Assigned to the Defense Intelligence Agency as Deputy Director in 1961, he was then promoted to lieutenant general. In 1964, General Quinn was appointed the 18th commanding general of the 7th Army in Germany. He retired 2 years later.

I met General Quinn when I went to visit Senator Barry Goldwater once over on the Chesapeake. He is a great individual, Mr. President. General Quinn's distinguished military career provides a picture of a great man. Those of us who are fortunate enough to call him a friend know that he has many more dimensions. He is a fine writer, who has contributed to many periodicals. He wrote a successful television series on our American infantrymen. General Quinn is an ardent fisherman, an outdoorsman, a golfer. In his Academy days, he played end on the football team and attack on the lacrosse team.

As a father and grandfather, he has a family which is extremely proud of him. His list of citations, decorations, and civic activities and many accomplishments would be a long one and still would not tell the story of the whole man. I know him as an almost professional Irishman. He knows more jokes about Irish people and can tell them at length. And he enjoys Irish whiskey, as a matter of fact.

Mr. President, I ask the Senate to join me in honoring a great man, Gen. ''Buffalo Bill'' Quinn on his 90th birthday, which he will celebrate with his friends and family on November 1.

I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBERTS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. 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. D'AMATO. I ask unanimous consent that I might proceed for up to 15 minutes as if in morning business.

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

Mr. D'AMATO. I thank the Chair.

THE GAZPROM DEAL

Mr. D'AMATO. Mr. President, on September 30, Total, a French company, and Petronas, a Malaysian company, and Gazprom, a Russian company, signed a $2 billion agreement to develop the South Pars oilfields in Iran. This contravenes the Iran-Libya Sanctions Act which passed the Senate unanimously, and passed the House of Representatives with I think all but four votes, and which was signed into law August 5, 1996, by President Clinton.

Mr. President, the history of the Iran-Libya Sanctions Act is one that, unfortunately, it seems to me, too many are ready to forget. Too many are ready to forget the 300-plus American citizens who were killed in PanAm 103, or that two Libyan agents have been indicted in connection with that terrorist attack and provided a safe harbor by the Libyan Government. Too many of us are fickle, it seems to me, and are ready to forget past acts of terrorism committed by these two countries because of political expedience, on the altar of corporate profits and greed.

Let us bring their arguments right out here: ''Oh, if we don't participate in this, others will. If we don't provide the bullets for the killers, others will, so why don't we sell them. Oh, forget the fact that this legislation was passed unanimously because, when this bill passed it was in close proximity to another tragedy that took place, the TWA flight that inexplicably exploded off the shores of Long Island.'' When the legislation passed, people were concerned whether or not it might have been a terrorist bomb or missile. I am not suggesting that it was terrorism, but there was that concern, and so the Congress was quick to respond.

I think we responded correctly. We said to those who are going to do business with countries that export terrorism, that are in the business of financing the fanatical kinds of acts that result in a terrorist attack at the World Trade Center in New York where 6 people are killed, that result in the bombing of the barracks in Riyadh in Saudi Arabia where our troops are killed, that engage in the kind of terrorist attack sponsored by the Libyans where 300-plus Americans are killed; we are not going to help promote trade with those countries that played a role in these attacks. And if companies and countries want to enter into agreements that will promote the financial resources and development of Iran and Libya, then they cannot have free access to the marketplace in America.

Is that a sacrifice? Yes, it is. Is it a sacrifice that we have a right to expect? I believe it is. Should it be greeted by the French Prime Minister standing up and cheering on the day that Total enters into this agreement, an agreement that our State Department was aware of and attempted to intercede and to get the French to work with us? I don't believe so.

What does that sanction bill provide? It has a litany of opportunities for the Libyans and the Iranians to escape punitive measures; if they act in conformity with the world community and stop sponsoring terrorist attacks, if they begin to show actions that they will live and let live, then the President does have the ability to relax and alter those sanctions.

But, Mr. President, to date there has not been one showing, not one, that any of those countries, the Libyans or the Iranians, are willing to cease and desist from promoting terrorist attacks against the United States, against our interests and against those who seek peace and want to live in peace. Indeed, if anything, they have become more violent.

By the way, I say to those who argue that this agreement or this arrangement or this law has not worked, it has worked. We know that there have been billions of dollars of investments that would have gone into promoting the economy of Iran so that they would have more resources to export terrorism that has been precluded.

For the leader of France to stand up and cheer, I believe, is horrendous. For him to say that this is extraterritorial legislation flies in the face of common sense. Are you really saying that the United States cannot take a position;

''that we are not going to support terrorist nations, that there will be sanctions, and that you cannot do business with us as if everything is fine and well and that you are comporting yourself as a good world citizen?''

Let me suggest to you that many of those who decry the U.S. position were the same who were so quick to come in and say a recent corporate merger that was about to take place should not take place. Oh, yes, the European Community, led by, once again, our friends the French, were ready to step in and say that the agreement between two American companies, McDonnell Douglas and Boeing, be invalidated. What about extraterritoriality in that situation? And in that case we are talking about two companies that are not exporting terrorism right here within the United States. Yet today we have the European Common Market talking about sanctioning the United States if we were to proceed in allowing those two aircraft manufacturers to merge and not ask for waivers and not work out a situation, because this would be competition that would be difficult for a European company, Airbus.

So let us not have a situation where there are those who are willing to condemn us for fighting terrorism—and by the way, how do we take on those who promote terrorism? We cannot bomb them. I am not suggesting that we do. But should we not deny them the financial resources with which to fuel the engine for exporting terrorism? Of course, we should.

It takes a little courage. I think that our administration has not done the kind of things that it should do behind the scenes, working with our allies to make this policy one that is easier to enforce. We have not told the Europeans to stand up to the Iranians, and say ''if you want to be able to have commerce and trade like others, then you have to behave. There is a code of conduct that we expect of you, or otherwise, there will be sanctions.'' We have simply not told them to tell the Iranians that.

There was once a time not too long ago when we imposed sanctions of all kinds on our current allies, the Russians, before the wall of communism came down. Sanctions that related to human rights, related to their antidemocratic activities. We didn't have pure free trade and commerce under the sanctions of yesterday, so the sanctions of today aren't anything new. For those who say somehow this is terrible, I'll tell you what is terrible: I think it is terrible that we have not laid our cards on the table with our allies and told them we expect them to join with us in the battle against terrorism.

I received a letter from our colleagues Senator BROWNBACK and Senator KYL, asking that the Banking Committee hold a hearing on the question of offering $1 billion of convertible bonds on the U.S. markets. And what were these bonds to be used for? They were to be used for helping to finance a company by the name of Gazprom; Gazprom, the very Russian company that helped bring about this deal promoting the exploration and development of the oil fields in Iran. Owing to the fact that Gazprom is clearly one of those companies that is in violation of the Iran-Libyan Sanction Act, and it can be sanctioned, I have a difficult time understanding—along with my colleagues Senator KYL and Senator BROWNBACK who have raised the question whether or not we should permit financing under our law—whether these financing activities wouldn't be in violation of our national security. Do these activities require a waiver from the President? We will be holding a hearing next week, next Thursday, to ascertain this.

In addition, I have learned from a number of accounts that Gazprom is now negotiating with our Export-Import Bank to get something in the area of $800 to $850 million worth of Export-Import Bank credits. This is incredible. Today I have written a letter to Senator MCCONNELL in which I have asked him to take the appropriate actions to see to it that this is not business as usual, that he puts a hold on this as he is marking up the appropriations bill dealing with the Export-Import Bank.

I ask unanimous consent the letter dated October 22 be printed in the RECORD.

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

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,

Washington, DC, October 22, 1997.

Hon. MITCH MCCONNELL,

Chairman, Subcommittee on Foreign Operations, Appropriations Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I write today with a matter of urgent concern. Gazprom, a Russian company has violated the Iran-Libya Sanctions Act by signing a $2 billion contract along with Total, S.A. of France and Petronas of Malaysia, with Iran to develop the South Pars oil field there. This flagrant act cannot be rewarded with U.S. inaction. Most importantly, it must not be rewarded with U.S. export financing.

Now, after this act of corporate greed and obstructionism of U.S. counter terrorism policy, we learn that Gazprom might well receive some $800 million in Export-Import credits. This cannot be allowed to happen. We must prevent the extension of these loans. There is no reason that we should be financing their violation of our laws and the enrichment of Iran.

Mr. Chairman, Iran's international misdeeds are legendary. Their sponsorship of international terrorism and their ongoing attempts to obtain weapons of mass destruction should cause all of us great concern. In this vein, Gazprom's aid to Iran cannot and should not be allowed to proceed without penalty. I, therefore, urge you in the strongest of terms, to seek an end to this financing as you prepare the final version of the FY 98 Foreign Operations Appropriations bill in the coming weeks.

Thank you for your support of this extremely important and urgent request.

Sincerely,

ALFONSE M. D'AMATO,
Chairman.

Mr. D'AMATO. I urged upon Senator MCCONNELL in the strongest terms to seek an end to this financing in the fiscal year 1998 foreign operations bill. If, indeed, we are going to have a situation where, on one hand we have a law that says you cannot do business with these countries, and on the other hand we are indirectly financing a corporation which is going to be undertaking these activities, then I think this is wrong. How can the United States provide $800 to $850 million worth of Export-Import Bank credits allowing U.S. companies to do more business with companies whose actions violate U.S. law and damage U.S. security? So we certainly have an obligation to look into this.

In fact, Gazprom is a company that is closely tied to the Russian Prime Minister, Victor Chernomyrdin. And when the Vice President, Vice President GORE, was in Russia several weeks ago, he reportedly spoke at length, to Mr. Chernomyrdin, about the Russian company's providing missile technology to Iran. It is my understanding Mr. Chernomyrdin said he had no knowledge of this, and that he could not do anything about it.

What are we talking about? I mean, the fact of the matter is the Russians have been providing this technology to Iran. It seems to me this situation is like the parent who doesn't want to acknowledge that a son or daughter may have some problems with substance abuse, but they look the other way. All the signs are there, but they look the other way. All the facts are there, but we don't want to have an acknowledgment.

Let me be clear, Iran is the foremost sponsor of international terrorism. They threaten our national security, the interests of our citizens and our allies, and it is unconscionable that we provide aid to them to do so. For the Russian Prime Minister to say we should stop worrying about this threat is incredible.

I think we should start worrying about the damage that will be done if this kind of contract is carried out by us acting as willing consorts. For Russian companies to be providing missile aid to Iran and then helping finance gas deals which will make it possible for the Iranians to undertake more terrorist activities, I think is simply impermissible. Are we supposed to really be quiet? Sit back? Are we going to really read the editorials that say that now I have somehow created a terrible situation by coming forth and saying ''let's look at this, let's examine this—I believe this is wrong.'' As far as Total and Petronas are concerned, I hope the administration understands the only correct course to take is to implement the law and to impose the sanctions to their fullest and to sit down with our allies and say to them: Instead of poking us in the eye deliberately and publicly, we should be working together; not for one to advantage oneself and make a quick buck.

We cannot fail to take this initiative and implement the law the way it was intended—it was intended to bring sanctions upon those who deal with countries that promote terrorist activities unless and until those countries change and mend their ways. Failure to act now will only come back to haunt us in the future. It will only bring more in the way of conduct that can be detrimental to world peace and to our security and to the national interests of the United States. I hope we have the courage to stand and act, instead of listening to those in the corporate and business sector come down and say: ''Oh, well, if they take this action today against Total that tomorrow it may impact against us.''

This is a battle. It is a war. It is a different kind but in many ways it is even more dangerous, more pernicious, more evil than the kinds of wars where nations may declare themselves against another nation. There, you know where the battlefields lie and you understand what is taking place. But this is a savage one, which is waged against innocent civilians, children—people throughout the world. That is why we need to employ all of the economic power and legal and moral authority that we have in bringing our allies together with us.

Mr. President, I yield the floor and 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. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COATS). Without objection, it is so ordered.

GERI MEAGHER

Mr. LOTT. Mr. President, our prayers today are with Mrs. Geri Meagher and her family. Geri, as most of us know, is the majority floor Doorkeeper. Hers is one of the brightest and friendliest faces greeting us on the Senate floor every day. And we miss her sunshine today.

I always look back to see Geri there keeping an eye on the Senate floor and making sure that everything is working in proper order. But last night she was stricken with a brain aneurysm and today is undergoing surgery. Our prayers for her recovery and return to us go with her today.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

TRIBUTE TO LIZ HEASTON, THE FIRST WOMAN TO PLAY COLLEGE FOOTBALL

Mr. SMITH of Oregon. Mr. President, I rise with a pleasant report today. There are very serious things that occur on this floor in this great Chamber of debate. This is also serious, but very pleasant to report.

This past Saturday history was made in our country. It occurred in my State. It occurred because a young woman by the name of Liz Heaston appeared in a men's football game at Willamette University. She became the first woman in college football history to play in a game.

Before a crowd of 2,500 people, Liz kicked 2 extra points in what helped Willamette University defeat Linfield College 27–0.

Liz is a starter for the Willamette University soccer team. And at the last minute she was asked to fill in for the team's regular kicker who was injured. She did it with great aplomb and obviously very effectively.

After the game, Liz merely said, ''I was out there to have fun and do my job on the field for the team. That was enough for me.''

It isn't enough for me to just acknowledge this, but I wanted to come to the Senate floor today to pay tribute to her and to say in this day and age anything is possible.

I commend her for being the first woman to play in a men's college football game.

Mr. President, I yield the floor.

WOMEN IN MILITARY SERVICE TO AMERICA MEMORIAL

Mr. HATCH. Mr. President, I rise today to pay tribute to those whose service has at long last been recognized by their country. I am speaking, of course, of those women who have served their country in uniform. This past weekend, women veterans converged in Washington for ceremonies dedicating the Women in Military Service to America Memorial.

Two million women have stepped forward to serve in every conflict from the American Revolution to Desert Storm. This is a surprising fact when you look around Washington, DC, with its many monuments to American military heroes and battles—generally men on horseback.

The Women in Military Service to America Memorial, thanks to the dauntless effort of retired Brig. Gen. Wilma Vaught, has finally become a reality. It will serve as a permanent reminder that the words ''duty, honor, country'' are not merely the motto of West Point cadets; they are part and parcel of citizenship in this great Nation. They certainly are not gender specific.

Today, there are over 1 million women who are veterans of our Armed Forces; and 14 percent of the U.S. military are women, many of whom have made military service a career.

These are women who have nursed the wounded and comforted the dying; they have flown aircraft; they have delivered the mail; they have requisitioned and moved supplies; they have maintained equipment; they have gathered and assessed intelligence; they have managed offices and pushed paperwork.

They have braved every condition and suffered every deprivation. They have been prisoners of war; they have been wounded; and many have offered the ultimate sacrifice of their lives for the Nation.

A person who serves in our Nation's Armed Forces is a citizen who has sworn to step into harm's way to defend freedom. Male or female, we owe our veterans a debt of gratitude for taking on these risks.

With the dedication of the Women in Military Service to America Memorial, we are finally recognizing the contributions of women in our Armed Forces.

I want to pay special tribute to the many women of Utah who have served. Utah's population includes more than 6,000 women veterans.

During the First World War, the Red Cross made desperate pleas for qualified nurses to staff the hospitals for the troops. One-fourth of the nurses in Utah at the time offered their skills and joined the effort. I think it is of particular note that, although Utah women had the right to vote, other women volunteered for military service in World War I before they could even vote.

And yet, they served under brutal conditions.

Mabel Winnie Bettilyon of Salt Lake City worked at an evacuation hospital in France where she faced an unrelenting patient load. During one night, more than 800 wounded American soldiers came into the hospital, and she was assigned to care for 136 of them.

Ruth Clayton called her service in France ''the most important experience of my life'' because, she said, ''I was able to help.'' She worked in a mobile medical unit caring for soldiers wounded by gas attacks, many suffering from horrifying disfigurement. She held the hands of the dying and strengthened the weak. They ate sitting in the mess tent on a wooden coffin. Upon Clayton's return, she went on, as so many others did, to a distinguished nursing career at home.

During World War II, Mary Worrell of Layton, UT, was among a select group of women who were trained to fly military cargo planes. Although relegated to the copilot's chair, these women proved their bravery and skill. Worrell trained as a Navy transport airman, a WAVE, flying the B–54 in alternately hot or cold unpressurized cabins. One of her assignments was to distribute the balance of weight in the plane. She recalls directing passengers to stand in the front of the plane for take off, or have them crouch in the tail depending on conditions. Today, Worrell helps educate and inspire visitors as a volunteer at the Hill Aerospace Museum in Utah.

Other women became Women Airforce Service Pilots [WASP's]; 25,000 women volunteered for the program to compensate for the shortage of pilots; 1,037 were accepted and completed the

training to become full-fledged pilots, delivering bombers from factory to the troops in Europe during the 1940s. They flew every kind of mission except combat. Because they were not officially part of the military, there were no bands or benefits awaiting them at the completion of their service. In fact, 39 of them lost their lives, and families and friends paid for the return of their remains. Not until 1977 were these women finally recognized and granted veterans status.

Efforts to integrate more women, to incorporate those military groups who had served as auxillaries, grew during the Korean war. Barbara Toomer is a Utah veteran of the Army Nurse Corps during the Korean conflict, when the total enrollment of women in the armed forces was at just 4 percent.

Their sacrifice does not always end with their military tours of duty, nor does their struggle for respect. When Veda Jones, a disabled Vietnam-era veteran, sought to work with her local service organization, the local commander pointed her in the direction of the auxillary. Undaunted, Jones persisted. She recalls thinking, ''I'm 60 percent disabled. I am a Vietnam-era veteran. I did my time—22 years on active duty. I belong with the main body.'' Ten years later, Jones was installed as the president of this 5,400 member organization. The veterans of Utah have looked to her leadership, and she has unfailingly been found at her post. She has been an inspiring champion on behalf of veterans, working tirelessly to assist with veterans' employment and health issues in Utah today.

When the country called many reservists to active duty during the gulf war, there were many Utahns, men and women, who answered the call. We hold the ideals of patriotism and service dear in Utah. With 6,000 members in the Army Reserve and 1,500 members in the Air National Guard, Utah has more units per capita than any other State. Brigham Young University in Provo, UT, has one of the few all-female Army ROTC units in the Southwest, a unit that has distinguished itself already as a force to be reckoned with.

As is the case throughout today's military, women hold key leadership positions and comprise vital elements of the units, proving not only that women have the skills to be full players in the defense of our Nation, but also that they have the same motivation for service as their male colleagues.

The women veterans of World War I, World War II, Korea, and Vietnam have opened the doors of opportunity for those Utah women on active duty today—as near as Hill Air Force Base or as far away as Europe, Korea, or on board ship.

The memorial dedicated last Saturday tells the stories of individual women, and it tells the story of a nation. Remember the women of the Revolutionary War and Civil War who disguised themselves as men in order to serve. Remember the women who worked as spies for the Army or nurses on the battlefield. Remember your grandmothers dodging fire as ambulance drivers in World War I, or your mothers staffing essential supply depots during World War II and Korea. Remember the women who worked in intelligence units in Vietnam or as helicopter pilots in the Persian Gulf. Today, military women are serving aboard ships and flying the space shuttle.

I will look forward to visiting this beautiful and fitting memorial; and, when I do, I will think of Mamie Ellington Thorne, Mabel Winnie Bettilyon, Mary Worrell, Barbara Toomer, and Veda Jones, among so very many others. I will think of those now serving and be grateful to them as well as to their male colleagues for keeping this country safe.

May the Women in Military Service to America Memorial stand to remind future generations of these noble women who, like their brothers, have given up certain comforts of civilian life, have volunteered to go to far flung places around the globe, and put themselves at risk to advance the cause of freedom.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1998

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to House Joint Resolution 97, the continuing resolution, for debate only. Therefore, no amendments will be in order.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A joint resolution (H.J. Res. 97) making further continuing appropriations for the fiscal year 1998, and for other purposes.

The Senate proceeded to consider the joint resolution.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. House Joint Resolution 97 is now pending?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, this resolution would extend the continuing concept of our appropriations to Friday, November 7, of this year. The terms and conditions are exactly the same as the bill that was passed by the Senate in September. The 1997 fiscal year funding levels and policy limits will prevail during the extended period of this continuing resolution.

We have made considerable progress on the appropriations bills for fiscal year 1998. The Defense, military construction, Treasury, energy and water, and legislative branch bills have all been enacted.

The Transportation and VA–HUD bills are pending before the President and should be signed within the next few days.

The Agriculture conference report has passed the House and is pending here in the Senate.

We expect to file an Interior appropriations conference report later today.

And it is my opinion we will complete the conference on the foreign operations, Commerce and Labor, Health and Human Services bills this week.

Additionally, we should pass or obtain cloture on the District of Columbia bill this week.

I am here to say I am grateful for the cooperation of the two leaders, Senator LOTT and Senator DASCHLE, in aiding our Appropriations Committee in passing these bills with significant bipartisan majorities.

We continue to need the help of all Members to complete our work prior to November 7.

Mr. President, I do not hope to come back to this floor again during this session of Congress to seek another continuing resolution.

We have very difficult policy issues to be settled on foreign operations, the Labor bill, and the Commerce bill, but I do believe we can complete the budget aspect of those bills this week. The controversial riders that are attached to the bills will dictate whether we can complete all of our work on these appropriations bills within this extended period.

I urge Senators who are concerned about these bills to support this continuing resolution, to give the committee the time it needs to work out the remaining differences between the House and the Senate on the bills that I have just enumerated.

Mr. President, again, it is my hope that we will, in this session, pass the separate appropriations bills, let the President exercise his will with regard to each bill, and conduct our affairs in the Appropriations Committee with separate appropriations bills and not to have one all-encompassing global type of continuing resolution as we wind up this session.

It is possible, Mr. President, to do our job, as we should do it—13 separate bills. That is my plea to the Senate. Help us work out the 13 separate bills.

I thank the President and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Brian Symmes, a fellow, and Maggie Smith, an intern, be granted the privilege of the floor.

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

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I now be

allowed to speak as in morning business.

The PRESIDING OFFICER. The Senator from Minnesota is recognized to speak as in morning business.

Mr. WELLSTONE. I thank the Chair.

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT

Mr. WELLSTONE. Mr. President, I rise to discuss legislation that the Senate may soon consider. The number of this bill is S. 270; it is the Texas low-level radioactive waste disposal compact bill.

As my colleagues know, the Congress is supposed to consent to all interstate compacts, which are contractual arrangements between States. In this case, we are asked to give our consent to the shipment of low-level nuclear waste from Maine and Vermont, and potentially other States, to Texas for disposal. I am opposed to this legislation as it is currently written. I want to make clear today what my intentions are.

Mr. President, we will have further opportunity to debate this legislation in full, and I do not intend to engage the bill's supporters today. I certainly never intend for this to become an acrimonious or bitter debate. But I want to publicly explain my opposition to this legislation and also what I intend to do.

I do not believe that it is the intention of the bill's sponsors, my good friends from Maine and Vermont, to do anything to harm the citizens of Sierra Blanca, TX, through this compact. My friends from New England are attempting to meet the concerns of their constituents. They just want to get rid of this nuclear waste and they want to figure out how to dispose of it. They want to get it out of their own States. I also understand that no one wants to have a nuclear waste dump in their neighborhood.

Now, this compact legislation says little about where the waste should go in Texas, other than that the State of Texas has an obligation to find a site. The State legislature in Texas has decided that there indeed will be a site and it will be in a small town in Hudspeth County, TX. My friends from Maine and Vermont, with whom I agree on many issues, and whom I enjoy working with, have not said that their State's nuclear waste should go to Sierra Blanca. But the effect of this legislation is to create a low-level nuclear waste dump site in a dusty little town in Texas called Sierra Blanca near the border with Mexico, about 60 miles east of El Paso.

Mr. President, I believe that there are many concerns that have been raised about the siting of this dump and the enactment of this legislation, including environmental issues, seismic problems, economic viability, current legal actions, and our relations with Mexico.

But I want to talk about one issue and one issue only, and hold what may be the first debate we have ever had on the floor of the U.S. Senate that deals with environmental justice, which is a shorthand way of talking about the disproportionate exposure of ethnic minorities and poor people to environmental pollutants. That is to say, all too often, when it comes to where we site these nuclear waste dump sites or where we put an incinerator, we tend to locate them in communities where there is a disproportionate number of people of color or poor people because they don't have the political clout.

Why do I raise the issue of environmental justice on a bill that professes to do no more than grant the Congress' consent to a compact between Maine, Vermont, and Texas for the disposal of nuclear waste? Because it is this bill which will enable Maine and Vermont to indeed ship nuclear waste to Texas—and I understand why they are trying to do it—but also because Texas has made it very clear where it intends to locate the dump site. That dump site, not surprisingly, is located in an area of west Texas that is populated disproportionately by poor Hispanics. This happens over and over and over again in our country. When we want to figure out where we are going to put the nuclear waste, we look to where the poor people live, to where communities of color without the economic clout live, and that is where we put it.

Is the proposed location of the dump in a poor community simply a coincidence, I ask my colleagues? Was it chance that the dry, sparsely populated county in Texas tentatively chosen for the dump site is 66 percent Hispanic with 39 percent of the people living below the poverty level? There certainly were other scientifically acceptable sites for the dump, so why did the Texas Legislature choose this spot, the sixth poorest county in Texas, with a high minority population, a low median household income and a sludge dump?

The answer to these questions is simple. We in this body understand the answer to this question all too well. It was politics. The community living near the site singled out by the Texas Legislature did not have the political clout to keep it out. While all the other candidate sites were able to deflect the dump, Sierra Blanca, in far western Texas, a poor community, a Hispanic community, did not pack the political punch of the communities near the other possible sites.

Another question that has arisen is, why am I, as a Senator from Minnesota, involving myself in the decision of the Texas Legislature to select a particular Texas site for a nuclear waste dump? For this reason, colleagues: It doesn't just happen in Texas, it happens all over this country. Poor and minority communities, unable to protect themselves in the political arena, find the old plumber's maxim is as true as ever: ''Waste flows downhill,'' both figuratively and literally, and if you are at the bottom of the socioeconomic slope, the pollution lands on you.

That is what this is all about. That is what this cry for environmental justice is all about. I predict that eventually environmental justice will become a huge issue in the Congress. To repeat, it is the old plumber's maxim that ''waste flows downhill, both figuratively and literally, and if you are at the bottom of the socioeconomic slope, the pollution lands on you.''

I am standing on the floor of the U.S. Senate today to say that enough is enough. Until more of us say enough and we face up to the environmental injustices that we may contribute to in the granting of our consent in legislation such as this, poor and minority communities will continue to suffer disproportionately from environmental degradation in our country. We are in desperate need in the United States of America of a meaningful dialog on environmental justice. I believe Americans understand the need for fairness, and I want Americans to understand that we have to address environmental justice whenever we think about how to deal with problems like waste disposal. All our actions have moral implications, and what we decide on legislation like this can ultimately harm our most vulnerable citizens.

I intend, Mr. President, to have a full debate on environmental justice. I want Members to explain why we should overlook the environmental justice implications of our actions in this instance. I want to talk about how this situation is symptomatic of many situations that we face in our country today. I want the U.S. Senate, as a body, to reflect on the consequences of pollution on poor and minority citizens all across the United States of America. I also intend to offer an amendment which adds one additional condition to Congress' consent to the compact. That condition is essentially that Congress grants its consent as long as the compact is not implemented in a way that it discriminates on the basis of race, color, national origin, or income level. Specifically, it will be designed to allow people who don't have the chance to fight fairly in the political process to make their case in the courts. I want to give poor and minority people, communities of color, a chance to fight this out in the courts.

That is the very point of environmental justice. When the political process fails, environmental justice means trying to level the playing field, sometimes forcing conflict into a more evenhanded forum in this country. In this particular case, that would be the courts. I am sure, Mr. President, that none of our colleagues would argue that it is acceptable to discriminate against people by locating a nuclear waste dump site in their community. That being the case, it is a simple matter to say that if the location of the compact dump discriminates against people on the basis of their race or economic status, Congress will not consent to this compact. That will be the

amendment I will bring to the floor if this compact is brought to the floor. I think this will happen and we will have this debate, and I think it will not be an acrimonious debate, but it will be one of the first debates we have ever had in the Senate on environmental justice or environmental injustice.

I would like to make one point crystal clear. I am not rising in opposition to compacts. My amendment does not pass judgment on the compact this bill attempts to create. Rather, it is designed to give the citizens of Sierra Blanca, a poor Hispanic community, another tool to have their voices heard above a political process that would just as soon ignore them. I hope my colleagues will recognize our obligation to the people of Sierra Blanca and to all our citizens in taking a stand for environmental justice.

Mr. President, I look forward to this debate. I will bring to the floor documents and other information for discussion. I will raise important questions as a Senator. It will be a civil debate, but I feel very strongly about this. What has happened to the people of Sierra Blanca, or what might happen to them, is all too indicative of what happens all too often to those communities that are the poorest communities, communities of color that over and over and over again are asked to carry the disproportionate burden of environmental degradation. It is not fair to these citizens. It is not fair to their children. It is not fair to their families. It is not fair to their communities. I believe this is a fundamentally important question that we have to address as an institution, as the Senate.

Mr. President, I yield the floor. For the moment, I note the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWNBACK). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. 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. WELLSTONE. Mr. President, I ask unanimous consent that my remarks be considered a part of morning business.

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

A GLOBAL WARMING CHALLENGE

Mr. WELLSTONE. Mr. President, I would like to comment on what is a challenge unique in human history that we face as a nation, and I am talking about global warming. It is unique because we have to make important decisions without a visible crisis staring us in the face.

In the 1970's, we had the long gas lines, we had two oil price shocks, the taking of hostages by a revolutionary mob in Iran, and that spurred our Nation to reduce its reliance on oil. And in the 1960's and the 1970's we had the dark clouds of particulates and the smog that smothered urban areas which moved us to clean up the air. Today, we are faced with a potentially greater threat, but it is not a visible threat. We are talking about something that is going to happen, something that is going to affect our children and their children, and the question is what are we going to do? It is a challenge for my State of Minnesota. It is a challenge for our country. It is a challenge for the whole human race. It is also a challenge about leadership. I am talking about the problem of global warming, the problem of climate change.

In 1992, for the Earth summit, President Bush made a commitment to return greenhouse gases to 1990 levels by the year 2000, and we have not lived up to that commitment. We have not honored that commitment. I believe the President, in 1993, made a similar commitment that we would reduce our greenhouse gases to the 1990 level by the year 2000.

I believe that the President's announcement today will fall far short of meeting this challenge—but I certainly want to say to the President and to the White House that I appreciate their efforts to try to move this process forward as we move toward a very important international gathering in Kyoto.

For more than a decade, the scientific community has investigated the issue. Initially, its reports called for more research, better modeling techniques, more data. But in December 1995, the Intergovernmental Panel on Climate Change, composed of more than 2,000 scientists from more than 100 countries, concluded that there was a discernible human impact on global climate. In June, more than 2,000 U.S. scientists, including Nobel laureates, signed the Scientists' Statement on Global Disruption, which reads in part that the accumulation of greenhouse gases commits the Earth irreversibly to further global climate change and consequent ecological, economic and social disruption.

Mr. President, I believe as a Senator from Minnesota that we have reached a point where unduly delaying action on reducing greenhouse gas emissions is foolhardy and it is tantamount to betrayal of our future generations. We know what this is going to do. The consequences can be catastrophic for our country and for the world, and I believe that the President and the United States of America have to do better in addressing this challenge.

What has saddened me about this debate is that I believe we should be below 1990 levels certainly before the year 2010. I believe our country should make a commitment to meeting these kind of targets. I think the evidence shows that as opposed to being on the defensive, we should be proactive, and the very bridge the President talks about building to the next century is going to be a bridge that combines a sustainable environment with sustainable energy with a sustainable economy. I think the country that is the most clean country is going to be the country with an economy powered by clean technologies, industries and businesses. It is going to be a country run with an emphasis on energy efficiency and with a renewable energy policy. It is going to be a country which will generate far more jobs in the renewable energy and clean technology sectors, which are labor intensive, small business intensive and community building sectors.

We have an opportunity as we move into the next millennium to really create a new marriage between our environment and our economy. We are all but strangers and guests on this land, as the Catholic bishops have said. We have to take action now. What the President is calling for is not likely to be enough to address this challenge and the task before us. We can do better as a nation. We can be more respectful of our environment while still growing our economy.

In the Red River Valley, the people of North Dakota and people of Minnesota went through a living hell this past winter and spring. We don't want the floods in the Red River Valley to be 5-year occurrences. And there will be other catastrophic consequences from global warming. For my State it could be agricultural devastation; for my State it could be deforestation and lower lake levels in the Boundary Waters, an area that we love, a crown jewel wilderness area in northern Minnesota.

The more important point, however, is that not only for ourselves but for our children and grandchildren we need to take much stronger action. We have to stand up to some of the powerful forces that are saying no to a meaningful treaty. We have to lay out a proactive, positive agenda which makes it crystal clear that energy efficiency and renewable energy and clean technologies will create many more small businesses and many more jobs for our country. This marriage between our economy and our environment would respect the environment, respect the economy, and would give us an energy policy that is much more productive and positive, while helping us to build and sustain our communities and our country.

I am disappointed in the position the President seems to have taken on targets and timetables for climate change action. I hope as we move forward toward an international treaty, our country will take a stronger negotiating position. We need to be the leaders of the world in meeting what I think is perhaps the most profound environmental challenge which we have ever faced.

Mr. President, I yield the floor. 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. 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, I ask consent to speak as in morning business.

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

APPROACHING THE CLINTON-JIANG SUMMIT

Mr. BAUCUS. Mr. President, next week Chinese President Jiang Zemin will arrive for his first State visit, the first State visit by a Chinese leader in 12 years. As this visit approaches, I rise to discuss our China policy and the things we might hope to see from this event.

Let me begin with the broad goals of our Asia policy. I think they are clear. First, a peaceful Pacific. Second, open trade. Third, joint work on problems of mutual concern like environmental problems and international crime. And fourth, progress toward respect for internationally recognized human rights.

Generally speaking, our Asian policy has helped move us toward these goals. We have a permanent military force in the Pacific which, coupled with strong alliances with Japan and South Korea, Thailand, the Philippines, and Australia, has helped to keep the peace for 20 years. While we have a lot of work ahead on Asian trade, our work has produced over $100 billion in export growth, an increase of 70 percent. That is since 1991. We are beginning to adopt a more systematic approach to the region's growing environmental problems, and can cite the democratization of the Philippines, Thailand, Taiwan, and South Korea as human rights success stories.

Where does China fit in? China is the largest country in Asia, the fastest growing economy, the largest military power, and the Asian nation with which our relationship has been most volatile during this decade. If we can establish a stable, workable relationship with China, all of our goals will come closer to realization. If we cannot, both Americans and Chinese, and other Pacific nations, will suffer a great deal.

Next week's summit offers us a chance to make a start. Following it must be a work program focusing on a very practical agenda. And as we approach the summit, I think we can help ourselves by putting the issues we must address in three broad categories. They are: mutual interests, areas of dispute, and issues we will face in the future.

First are the areas where we have mutual interests.

Regional security is one case. We must work with China to maintain peace in Korea. Both countries want to avoid a conflict over Taiwan. We need to ensure that Japan does not feel pressured to become a military power. On weapons proliferation, if India and Pakistan develop nuclear missiles, China will suffer from it a lot more than we would.

Environmental issues are another matter. We both need to ensure sustainable management of fisheries and to address air pollution and acid rain problems caused by the boom in Chinese power production. We also must work much closer together to do our best to protect biodiversity and prevent large-scale climate change. One concrete proposal that will help in this area, if the public reports that China has agreed to our proposals on nuclear proliferation are accurate, is opening up civil nuclear technology sales.

A number of domestic Chinese issues also fall into this area. Helping China establish a broad rule of law will contribute to our human rights goals.

Labor safety is a second case where we could contribute to China's own efforts to improve factory safety and improve the lives of many ordinary Chinese; and helping Chinese farmers take advantage of cleaner pesticides, modern agricultural technologies, and an up-to-date infrastructure is a third.

We also clearly have some disputes with China. We should not make them the whole focus of our relationship, but neither should we try to duck them.

At times we will need simply to understand one another's positions and agree to put off disagreements into the future.

Taiwan policy has been handled reasonably well in this manner for the past few decades. Perhaps with some adjustments in detail, we should continue that policy.

Likewise, China has recently expressed some unhappiness with our stationing of troops in Asia. They need to understand that the issue is between us on the one hand and Japan and Korea and our allies on the other. It is not on the table for discussion.

In other areas we should expect to do better. We seem to be doing well in nuclear proliferation. It is my hope that the President will seal that achievement by certifying China as in compliance in the nuclear area, and open up civil nuclear power trade with China. On missiles and chemical weapons, we see less thus far. And while I do not regard sanctions as a tool appropriate for every issue on the table with China—and I do not believe Congress should be passing broad new sanction laws—these are areas where we should use targeted sanctions if necessary. We did this last spring in the case of the sale of chemical weapons precursors involving a Nanjing company. If it happens again, we should use tougher penalties.

Trade is another example. Despite the optimism of United States business, since 1980 our exports to China have grown more slowly than our exports to any other major market, whether it be Canada, Japan, Europe, Mexico, or ASEAN. Meanwhile, we have been tremendously generous to China, keeping our market to Chinese goods more open than any other in the world.

This is not acceptable. It is wrong when Chinese shoe companies can sell to Montana but Montana wheat farmers cannot sell to China. We should expect China to be as fair and open to us as we are to them. And we should offer an incentive to do that. Specifically, we should make MFN status permanent when China comes up with a good WTO package. But we should also be clear that we cannot wait forever.

Our 5-year bilateral trade agreement negotiated in 1992 is about to be completed. And if the pace of the WTO talks does not pick up soon, we should use our retaliatory trade law, section 301, to win a broad successor to it.

On human rights, while we should seek common ground and recognize where China is doing better, we should also not shrink from bringing up the tough issues. The time is past when these questions could be considered strictly domestic concerns. We should bring up individual cases of political prisoners, ask for talks with the Dalai Lama and Red Cross access to Chinese prisons. If the Chinese want us to stop sponsoring resolutions at the U.N. Human Rights Commission, they need to show some understanding of our concerns and the world's concerns on these issues.

THE ISSUES: LOOKING TO THE FUTURE

A third set of issues may be the most important of all, especially as we approach a state visit and a summit. These are the issues we will face in the years ahead, and where mutual understanding beforehand is crucially important.

The most important of all will be Korean unification. I recently visited North Korea. Hunger is widespread and chronic. Economic life in Pyongyang is at a standstill, with broken down streetcars in the middle of the road, empty streets and darkened buildings. And officials there offered no proposals for change other than planting more trees to prevent erosion.

This cannot continue forever. Whether it results from a violent collapse, peaceful if belated reform, or even a desperate attack on the south, change is sure to come on the Korean Peninsula. There will be no belligerent, autarkic regime on the Korean Peninsula.

And as Koreans sort out their own future, we will have to make some very serious security and economic decisions in a very short period of time. They will involve American troop movements and a crisis on the Chinese border. And we need to ensure beforehand, through intensive discussions with China, Russia, Japan, and South Korea, that our policies do not bring us into unnecessary disputes or conflicts with China or any of Korea's neighbors.

We can all think of other issues. They include the effects of very rapid financial flows on fast-growing regions,

the potential of newly developed technologies to spur terrorism and organized crime. And the vulnerability of the new states on China's western border to civil war and religious fanaticism, which we hardly think about but which the Chinese Defense Minister told me last winter was, together with Korea, the most serious security issue China faces today.

IF THINGS GO WRONG ANYWAY

One final point. China policy does not exist in a vacuum. We should do our very best to make this relationship work. But we cannot predict the course China will take. And so, as we think about China policy, we must also think about broader Asian policy.

If we manage our alliances with Japan, South Korea, Southeast Asia, and Australia well; preserve our commitment of troops in the Pacific; and protect our own economic and technological strength, we will be able to handle whatever lies ahead.

CONCLUSION

But I believe we can do better than that. I have met this year with a number of Chinese officials, including the President as well as senior military officers and trade officials. And I think the Chinese on the whole are pragmatic people who understand the importance of this relationship to their own country. And I believe they are interested in working with us to set it right.

So as this summit approaches, we have a great opportunity to set our relationship with China on the right course to create a stable, long-term relationship that contributes to our goals: peace, prosperity, environmental protection, and human rights. It is a great chance, and we must not miss it. Because the issues dividing us may be many and complex. But the basic choice is simple. China will be there for a long time. So will we. And both governments can either try their best to get along, or all of us can suffer the consequences.

It's just about that simple, and that important.

Thank you, Mr. President. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. GRASSLEY. Madam President, I ask unanimous consent to address the Senate as in morning business.

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

DRUG-FREE IOWA MONTH

Mr. GRASSLEY. Madam President, as chairman of the International Narcotics Control Caucus, sometimes called the drug caucus of the U.S. Senate, I periodically report to the Senate on trends in the use of drugs and the dangers thereof that go on in our society.

This month of October in my State of Iowa is called Drug-Free Month. I want to bring my colleagues' attention to this fact and the reason for it. Iowa has only 2.8 million people. As you know, it is largely a rural State. Des Moines, our largest city, numbers fewer citizens than one of the suburbs of some of our Nation's big cities. There are more people in the Los Angeles area or Chicago than in all of my State of Iowa. We are a closely knit community, proud of our commitment to families and the virtues of self-reliance, hard work and personal responsibilities.

These facts, however, do not mean that Iowa is isolated from the mainstream or provincial in its thinking. This also does not mean that Iowa is free of the problems that beset States with larger cities and more people. We, in Iowa, unfortunately, see our share of gang violence and teen drug use. Indeed, Iowa shares in the growing drug problems among the young, the same that troubles the rest of the Nation. The fact that this problem reaches beyond our larger States and beyond our big cities into our rural heartland should tell us something about the far-reaching nature of our national—and I emphasize national—drug problem.

According to recent numbers from my State of Iowa, as many as 11 percent of our high school seniors are regular users of marijuana. This number is up dramatically from just a few years ago. This number is growing as more kids at even younger ages no longer see using heroin as risky or dangerous. In the last few years, the number of regular users has grown steadily, whether it is in Iowa or across the country. In addition, we know from experience and research that as marijuana use goes up, so does drug use of other varieties.

We now have a major problem in my State of Iowa in methamphetamine. This problem has exploded in just the last few years, paralleling the trend in the West and the rest of the Midwest. Reports of treatment episodes for meth problems in my State of Iowa soared over 300 percent between 1994 and 1995. The trend continues. Just as troubling is the effort by the criminal gangs to site the labs that produce and sell this poison to our kids in Iowa. This is something that we are seeing through the West and Midwest, and the problem is moving eastward.

The lab problem is a double whammy. The labs produce a dangerous drug that poisons the hearts and souls of our kids and then they create a very dangerous environmental hazard requiring cleanup wherever the labs are found. Cleanup is risky, dangerous, costly. Many of our local fire and police departments lack the resources or the training to deal with the problem of cleaning up meth labs.

This problem and the trends that I have noted are not unique to Iowa. They are indicative of what is happening across the country. They are happening because we have lost our fear of drugs. We have let our guard down. Into that environment drug pushers and drug legalizers have stepped in to do their own song and dance. They are making gains; we are losing ground. And it is the kids who are paying the price.

Two very important concerns are being missed. The first is the serious nature of the growing drug use among kids. The second is the growing tendency to regard this trend with complacency, or worse, to go along with the drift into a de facto legalization of dangerous drugs. The last time we as a country did this we landed ourselves into the midst of a major drug epidemic. We were just beginning to dig ourselves out from the 1970's and 1980's. Now it seems the earlier lessons are forgotten.

There is no way to put a happy face on what is happening. It is not hard to describe. It is not difficult to understand. It is not beyond our power to do something about it. Yet what is happening is happening right under our very noses, and to date what we are doing about it is not working. This is what is happening:

Between 1992 and 1995, marijuana use among kids aged 12 to 17 has more than doubled—from 1.4 million to 3.1 million. More than 50 percent of the high school seniors have used drugs before graduation; 22 percent of the class of 1996 were current users of marijuana. LSD use by teens has reached record levels. Evidence indicates that the current hard-core addict population is not declining.

Hospital emergency room admissions for cocaine-related episodes in 1995, the last year for which there is complete information, were 19 percent above the 1992 levels. Heroin admissions increased almost 60 percent. Drugs of every sort remain available and of high quality at cheap prices while the social disapproval has declined, especially among policy leaders and opinion makers.

Hollywood and the entertainment industry are back in the business of glorifying drug use in movies and on TV. There is a well-funded legalization effort that seeks to exploit public concerns about health care issues to push drug legalization, most often under the guise of medical marijuana.

Opinion polls among kids indicate that drugs and drug-related violence are their main concerns. They also make it clear that drugs are readily available in schools, and the kids as young as 9 and 10 years are being approached by drug pushers in school or on the way to school.

This is only part of what is happening. Taken together, what these things indicate is that we are experiencing a rapid increase in teenage drug use and abuse. This comes after years of progress and decline in use. These changes are undoing all of the progress

that we had made during the 1980's. If the trend continues, our next drug epidemic will be worse than the last one. We will not only have the walking wounded from our last epidemic—there are over 3 million hard-core addicts—we will also have a new generation of substance-dependent kids moving into adulthood. As we learned, or as we should have learned during the last time that we went through this, this dependence is not a short-term problem. For many addicts, it is a lifetime sentence.

For the communities, families, and the Nation that must deal with these people and with the problems associated with it, it is also often an open-ended commitment.

Along with this comes all the associated violence that has made many of our inner cities and suburban neighborhoods dangerous places. Not to mention the medical and related costs in the tens of billions of dollars annually. And all of this for something that advocates reassure us is purely a personal choice without serious consequences. This is one of those remarks that should not survive the laugh test.

The fact that it does, however, and people can somehow make light that personal choice of drug use is not something to worry about and doesn't have serious consequences is an indicator of our problem in coming to terms with the drug use.

In the last 5 years, the record on drugs has gotten worse. Pure and simple. It's not because we are spending any less on the effort. Indeed, the drug budget has grown every year. One of the first acts of the Republican Congress was to increase the money devoted to combat drugs. Yet, the numbers on drug use grow worse.

One of the leading causes of that is a lack of leadership at the top. The President and First Lady in previous administrations were visible on the drug issue. That is not now the case. The present occupant of the White House has put a great deal of emphasis on tobacco but he has been the Man Who Never Was on illegal drugs. More than this, the message about both the harmfulness and, just as important the wrongfulness of illegal drug use has been allowed to disappear. I leave to others to determine if the President's absence is because his advisors believe he has no credibility on the issue or simply do not care. Whatever the explanation, the result is an ambiguous message or no message.

If we could have the same message coming out of the White House on illegal drugs as we do on tobacco, I think we would be much further along on the road to victory on the war against drugs.

We need to be consistent in our no-use message on illegal drugs. To be ambiguous or complacent or indifferent sends the wrong message. The recipients of that muddled message are kids. The consequences of garbled messages can be seen in changes in attitudes about drugs, and in drug use numbers among kids at earlier and earlier ages. We cannot afford this type of unmindfulness.

That is why we are having Drug-Free Iowa Month. We need to come together as a community to recognize the threat and deal with it. We need community leaders involved. We need our schools, politicians, business, entertainment, sports, and religious figures to be aware of the problem and engaged to deal with it. We can make a difference, but that begins with awareness. It requires an effort. It requires sustaining that effort.

I yield the floor.

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. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

TRIBUTE TO BOBBY MULLER

Mr. LEAHY. Madam President, on October 13, the Army Times had an article by George C. Wilson entitled "One Man's Fight for a Better World." It is about a man I admire as much as anyone I have met in my years in the Senate, and that is Bobby Muller, the head of the Vietnam Veterans of America Foundation.

The article, written by George Wilson in his usual definitive and exacting manner, speaks about Bobby probably far better than I could and I am going to shortly ask to have the article printed in the RECORD. The reason I want to do that—though I doubt that there are many people in Washington who do not already know Bobby Muller, is because I hope those who read the CONGRESSIONAL RECORD will see this. He has been my inspiration and really my conscience on so many issues. But the thing that I think sets him apart from so many others is the fact that for well over a decade he has fought so hard to rid the world of landmines. He has done it not only in this country, in working with those of us who have sponsored and backed legislation to ban landmine use by the United States, but he has done it worldwide. He founded the International Campaign to Ban Landmines. He was its inspiration.

I talked with him early one morning a couple of weeks ago after hearing that the Nobel Committee awarded the Nobel Peace Prize to the International Campaign to Ban Landmines, which was shared with its coordinator, Jody Williams of Putney, VT. I said to Bobby at that time how proud he must be because he is the one who started this campaign, and who hired Jody to coordinate it worldwide. Because of his vision and the hard work of so many people, in Ottawa this December some 100 countries will sign a treaty banning landmines.

I am extremely proud of Bobby. I feel privileged to be his friend. I have certainly been helped over the years by his advice and by his conscience.

Madam President, I ask unanimous consent that the article be printed in the RECORD at this point.

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

[From the Army Times, October 13, 1997]

ONE MAN'S FIGHT FOR A BETTER WORLD

(By George C. Wilson)

"Oh my God! I'm hit! My girl. She'll kill me. I can't believe I'm dying on this piece of ground." Those were the last conscious thoughts of Marine 1st Lt. Bobby Muller as he lay bleeding on top of the hill he just taken in Quantri Province, Vietnam, in 1969. An enemy bullet had pierced this chest tumbled through his lungs and severed his spinal cord.

He woke up in a military hospital, astonished he was still among the living. "I'm here!" his mind silently screamed at him in astonishment, "I didn't die."

Like any 24-year-old, especially a former athlete, Muller inventoried his body while lying in the hospital bed. He discovered he was paralyzed from the chest down. He would walk again, much less run with this old teammates or dance with that girl back home.

The rest of this story could have been like that of so many other Vietnam veterans that you and I have known, and perhaps helped get through the night. An all-consuming bitterness that eats away at everything: jobs, marriages, self-respect. Nothing matters any more. The Vietnam War, for thousands of young men, trivialized everything after it.

Not so with Bobby Muller. He is one of those welcome, shinning Vietnam success stories, which I want to tell here, because it is both timely and timeless. Doesn't matter if you agree with him or not. To everyone from President Clinton, who has sought his counsel, to the secretaries who work for him at the Vietnam Veterans of America Foundation, Bobby Muller is a man committed to leaving the world better than he found it.

Of late, Muller, from his wheelchair, has been the most credible and powerful voice arguing for ridding the world of anti-people land mines, which kill or maim somebody somewhere every 22 minutes. Years ago, he railed against the Vietnam War, calling it an "atrocity" and demanded that the Veterans Administration stop treating the men who got hurt in it like lepers. Many VA hospitals really were as bad as the one portrayed in the movie "Born on the Fourth of July".

"People would call me a traitor," he told a television audience, in recalling the reaction to his anti-war statements in the 1970s. "It's harder for me to repudiate the war," the paraplegic told his detractors. "Don't you think I'd love to be able to wrap myself in the mantle of being a hero? Don't you think I'd love to be able to say that what happened to me was for a reason—it's a price you got to pay for freedom? When I have to say what happened to me, what happened to my friends, what happened to everybody over there was for nothing and was a total waste, that's a bitter pill to swallow."

Muller did swallow the pill. It still burns in his gut. But he has managed to use the burn to fuel his drive, not consume it.

"The reality of that war has stayed with me every day," Muller has said. "I know what it is to have people around me die. I know what it is to hear the screams in the recovery room. The most important thing for me in life is dealing with those issues

that come out of war. And particularly the Vietnam War.''

Muller learned the hard way that he had to mobilize not only himself, but also other Vietnam veterans before he could take the new hills he set out to conquer. He was thrown out of the Republican convention in 1972 for shouting at President Nixon to stop the war. He needed comrades and soon got them, founding the Vietnam Veterans of America in 1978. He left that membership organization in 1980 to found and head the more broadly involved Vietnam Veterans of America Foundation. Nobody throws Bobby Muller out of anywhere anymore.

White-haired but still passionate about his causes, the 52-year-old Muller has led the battle against land mines from up front. How would you like to be Clinton and—in refusing to sign the treaty banning anti-personnel land mines—pit your thin credibility and bureaucratic rhetoric against such penetrating statements as these from Muller, who had a mine blow up near him before he was shot in Vietnam:

Land mines, mostly our own, were ''the single leading cause of casualties'' to U.S. service people in Vietnam. ''Land mines are not a friend to the U.S. soldier. They are a threat to the U.S. soldier. The Pentagon is institutionally incapable of giving up a weapon.''

I don't fault the Joint Chiefs of Staff for fighting to keep their weapons, including certain types of land mines. That's their job. And it was ever thus. But it's the president's job to stand up to the chiefs if the Mullers of the world have the more persuasive case.

''I can't tolerate a breach with the Joint Chiefs,'' Muller says Clinton told him. You can, and should, Mr. President. You're our only commander in chief. And Bobby won't let you forget it as he takes this new hill.

Mr. LEAHY. Madam President, there is much more I could say about Bobby Muller, but I know what would happen if I went on longer. I would hear from him and he would chastise me for praising him, because Bobby always finds others to praise. I have probably risked that already, but I want people to know that this is a man who has done so much for the world and a man who should feel so honored by what he did to create the International Campaign to Ban Landmines and by its receipt of the Nobel Peace Prize.

REPUBLICAN ATTACKS ON THE INDEPENDENCE OF THE FEDERAL JUDICIARY

Mr. LEAHY. Madam President, last month, the President of the United States devoted a national radio address to the threats being posed to our federal judiciary by the campaign of intimidation, including the stall in confirming judicial nominees for the almost 100 vacancies that persist nationwide. It is a sad day when the President must remind the Senate of its constitutional responsibilities to consider and confirm qualified nominees to the Federal bench. I regret that we have reached this point.

The President's address was an important one. I hope that his call for an end to the intimidation, the delay, the shrill voices of partisanship will be headed. I will continue to do all that I can to defend the integrity and independence of our federal judiciary and to urge the Republican leadership of the Senate to move forward promptly on judicial nominations. I ask unanimous consent that a copy of the text of the President's address be printed in the RECORD at the end of my statement.

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

(See exhibit 1.)

Mr. LEAHY. I have previously included in the RECORD on July 31 a letter dated July 14 to Senator LOTT from the presidents of seven national legal associations similarly urging the Senate to act to preserve the integrity of our justice system by fulfilling its constitutional responsibility to expedite the confirmation process for federal judges so that longstanding vacancies could be filled. These bar association presidents noted the ''looming crisis in the Nation brought on by the extraordinary number of vacant federal judicial positions.''

Last month also saw the publication of a report by People for the American Way entitled ''Justice Delayed, Justice Denied: The Right Wing Attack on the Independent Judiciary.'' This report concludes that the campaign attacking the legitimacy of the judiciary and pressuring the Senate not to process the judicial nominees of the President is resulting in the judiciary not having the judges it needs to fulfil its responsibilities:

Dockets are backing up, cases are going unheard for years at a time, justice is being delayed. In the end, the right wing's campaign has increased the risk that the law will not be enforced because there are two few judges to enforce it.

During the week of September 22 through September 26, National Public Radio broadcast a series of five reports on the federal judge shortage by correspondent Nina Totenberg.

When a U.S. attorney can refer to the lack of courtrooms and Federal judges as a bottleneck in the criminal justice process and the chief judge of a Federal district court can acknowledge that the court is so overwhelmed with criminal cases that it is operating like an assembly line, that cases are not given the attention that they deserve and that you know that you're making a lot of mistakes with—because of the speed, we have reached a crisis. That is not American justice, that is not the Federal justice system on which all of us rely to protect our rights while enforcing the law.

I have addressed the Senate on this problem on a number of occasions already this year, including March 19, March 20, April 10, May 1, May 14, May 23, June 16, July 31, September 4, September 5, September 11, September 25, September 26, October 9, and October 21. I have spoken of it at meetings of the Judiciary Committee on March 6, April 17, May 22, June 12, July 10, July 31, September 18 and October 9 and in Judicial Committee hearings on March 18, May 7, June 25, July 22, September 5, and September 30.

The current vacancy crisis is having a devastating impact on the administration of justice in courts around the country. Let me note a few examples:

In the Northern District of Texas, a family filed their lawsuit 7 years ago and is still waiting for their day in court.

Chief Judge J. Phil Gilbert, head of trial court in the Southern District of Illinois, where two of the four judgeships are vacant, reported that his docket has been so burdened with criminal cases that he went for a year without having a hearing in a civil case. That happened despite the fact that 88 percent of the cases filed in all Federal trial courts were civil, while only 12 percent were criminal in 1996.

In California, one family's 1994 lawsuit against police, filed after the family's 14-year-old child was killed in a police chase 6 years ago, is still pending.

In Oregon, the Federal courts has stopped doing settlement conferences, an invaluable tool for resolving claims before trial, because of the unavailability of judges.

Due to vacancy problems, the district court in San Diego is holding only 10 civil trials per year.

In Florida, to reduce an expected backlog of 4,400 cases, 10 district court judges have announced that they will hold a 3-month marathon session in Tampa next year.

In the Ninth Circuit Court of Appeals, for which the Senate has found time to include as a rider on an appropriations bill a politically inspired plan to split the circuit but not to fill any of the 10 vacancies that plague that Court, 100 oral argument panels and 600 hearings were canceled this year due to lack of judges. As a result, it takes a year after closing briefs have been filed to schedule oral arguments.

Chief Judge Ralph Winter testified that the Second Circuit Court of Appeals expects to include a visiting judge on 80 percent of its panels over this year in light of the four unfilled vacancies on that court and its burgeoning workload.

Across the country, the number of active cases pending for at least 3 years jumped 20 percent from 1995 to 1996, and there are now more than 16,000 Federal cases older than 3 years.

These are real life examples of the harm caused by the irresponsible lack of action by this Senate in considering highly qualified judicial nominations. It is time for the Senate to fulfil its constitutional responsibility to confirm the Federal judges needed for the effective administration of justice.

Judge Stephen Trott, formerly a high-ranking Reagan appointment in the Department of Justice, included the following summary of the situation in which the ninth circuit finds itself in light of the Senate's unwillingness to consider nominees to fill the vacancies that plague that court in an opinion that he wrote early this year:

With nine [now ten] vacancies out of twenty-eight authorized judges in the United

States Court of Appeals for the Ninth Circuit . . . one wonders how Congress and the President expect us promptly to process our ever increasing 8,000-plus caseload. . . . Our current 9 [now 10] vacancies mean we will process 1,500 fewer cases this year than we could with a full bench. To the litigants who wait in line for us to resolve their disputes, this unnecessary disability is unpardonable. . . . In a country that prides itself on being a nation of laws rather than just a nation of leaders, and which exalts the rule of law as the appropriate method of resolving controversies, we must do better in keeping our civil and criminal justice system able without unnecessary delay to deliver to the People the important promises of our Constitution.

In light of all of this, I was surprised to read the remarks of the distinguished chairman of the Judiciary Committee in response to the President of the United States in the RECORD for September 29. The Senator from Utah referred to myths and distortions, but I do not believe that he could have been referring to the statement by the President. The President spoke the truth. There is a vacancy crisis in the Federal judiciary and there is a Republican slowdown of judicial confirmations.

The Chief Justice of the United States recognized the crisis when in his 1996 end of the year report he noted:

The number of judicial vacancies can have a profound impact on the courts ability to manage its caseload effectively. Because of the number of judges confirmed in 1996 was low in comparison to the number confirmed in preceding years, the vacancy rate is beginning to climb. . . . It is hoped that the Administration and Congress will continue to recognize that filling judicial vacancies is crucial to the fair and effective administration of justice.

More recently, the Chief Justice termed the rising number of vacancies on the Federal bench ''the most immediate problem we face in the federal judiciary.'' This is hardly a partisan statement but a recognition of the seriousness of the crisis posed by judicial vacancies.

As for the slowdown, there are currently 27 judicial vacancies that the Administrative Office of the United States Courts terms judicial emergencies because they have been vacant for more than a year and one-half. Last year the President had sent 15 nominees to the Senate to fill judicial emergencies and all were returned without action at the end of the year.

This year, after months of delay, the Senate finally filled judicial emergencies by confirming the nominations of Merrick Garland, Colleen Kollar-Kotelly, Eric Clay, Arthur Gajarsa, Henry Harold Kennedy, Jr., Joseph Battalion, Katherine Sweeney Hayden, Richard Lazzara, Marjorie Rendell, and Richard C. Casey. Some of these nominations were pending before the Senate for periods of 18 months, 12 months, 16 months, 16 months, 19 months, and 17 months.

Still, the Federal judiciary and American people face a record number of judicial emergency vacancies and await action on the nominations of Ann Aiken, James Beaty, Richard Caputo, William Fletcher, Bruce Kauffman, Stanley Marcus, Michael McCuskey, Margaret McKeown, Susan Oki Mollway, Margaret Morrow, Richard Paez, Anabelle Rodriguez, Michael Schattman, Christina Snyder, Clarence Sundram, Hilda Tagle, Jame Ware, and Helene White, who are pending before the Senate eager to get to work and fill them.

We have seen 115 judicial vacancies over the course of this year. The Senate has seen fit to confirm only 21 nominees. More than 50 additional nominees remain pending in committee and before the Senate. The Senate is not even keeping pace with attrition. Since the adjournment of Congress last year, judicial vacancies have increased by almost 50 percent. Indeed, this net increase in judicial vacancies, 29, still exceeds the number of judges confirmed over the course of the year, 21, and likely will when the Senate adjourns in November.

I have not attacked Senator HATCH on this floor and will not today. I know that if it were up to him we would be doing better, we would have fewer judicial vacancies and they would have been filled more quickly. I have asked him to hold more hearings and to consider nominations more expeditiously.

I thought we might be seeing a change in the atmosphere in the Senate in September. Anticipation of the President's radio address on the judicial vacancy crisis obviously reached the Senate. Even those who have been holding up the confirmations of Federal judges were uncomfortable defending this Senate's dismal record of having proceeded on only 9 of the 61 nominees received through August of this year.

As rumors of the President's impending address circulated around Capitol Hill, the Senate literally doubled its confirmations from 9 to 18 in the course of 23 days in September and forth first time all year achieved the snail-like pace of confirming 2 judges a month while still faced with almost 100 vacancies.

September was the only month all year that the Judiciary Committee held two confirmation hearings for judicial nominees during a single calendar month.

Following the wave of attention generated by the President's address, however, the Republican majority has reverted to its prior destructive course and the Judiciary Committee has yet to hold a hearing for any of the more than 40 nominees who have yet to be according hearings this year.

The President has sent the Senate 73 judicial nominations so far this year. The Senate has confirmed 21 judges. From the first day of this session of Congress, the Judiciary Committee has never worked through its backlog of nominees and has never had pending before it fewer than 20 judicial nominees awaiting hearings. The Committee's backlog has doubled, with 10 of these nominations having been pending since at least 1996; 5 have been pending since 1995.

Early this year, Chairman HATCH worked hard to bring the nomination of Merrick Garland to a vote. He gave that nominee his strong personal endorsement and fought for him. After an 18-month delay over 2 years, that outstanding nominee was finally confirmed 77 to 23. During that debate, the Christian Coalition circulated a letter opposing this outstanding nominee. Senator HATCH concluded the debate on the confirmation of Merrick Garland observing that he was sick of those playing politics with judges. I agreed with him then and still do. Unfortunately, the stall has continued and some in his party have continued to play very dangerous politics with judges.

In the last five rollcall votes on judicial nominees, there has been a cumulative total of one negative vote by a single Senator. Five judges were confirmed by unanimous rollcall votes and one was confirmed 98 to 1. The only judicial nominee to receive any negative votes was Judge Merrick Garland of the District of Columbia Circuit. He was opposed by the majority leader and 22 other Republican Senators. He was well qualified and was confirmed. That confirmation took over 18 months from when the Senate received the nomination.

Another of the well-qualified nominees who has been delayed far too long is Margaret Morrow. I spoke of her earlier this week when the Senate acted in less than 7 weeks to confirm the nominee to the district court in Utah. Unfortunately, not every nominee fills a vacancy in the home state of the chairman of the Judiciary Committee.

In contrast to the Senate's treatment of the Kimball nomination, Margaret Morrow's nomination has been pending before the Senate for over 16 months and pending on the Senate calendar awaiting action for more than 7 months.

Last year this nomination was unanimously reported by the Judiciary Committee and was left to wither without action for over 3 months. This year, the committee again reported the nomination favorably and it has been pending for another 4 months. There has been no explanation for this delay and no justification. This good woman does not deserve this shameful treatment.

Senator HATCH noted in his recent statement on September 29 that he will continue to support the nomination of Margaret Morrow and that he will vote for her. He said: ''I have found her to be qualified and I will support her. Undoubtedly, there will be some who will not, but she deserved to have her vote on the floor. I have been assured by the majority leader that she will have her vote on the floor. I intend to argue for and on her behalf.''

I have looked forward to that debate since June 12 when she was favorably reported to the Senate for a second

time. This is a nomination that has been pending for far too long and that has been stalled here on the floor twice over 2 years without justification.

Meanwhile, the people served by the District Court for the Central District of California continue to suffer the effects of this persistent vacancy—cases are not heard, criminal cases are not being tried. This is one of the many vacancies that have persisted for so long that they are classified as judicial emergency vacancies by the Administrative Office of the U.S. Courts. There are four vacancies in the court for Los Angeles and the Central District of California. Nominees have been favorably reported by the Judiciary Committee for both of the judicial emergency vacancies in this district but both Margaret Morrow and Christina Snyder have been stalled on the Senate calendar.

This is a district court with over 300 cases that have been pending for longer than 3 years and in which the time for disposing of criminal felony cases and the number of cases filed increased over the last year. Judges in this district handle approximately 400 cases a year, including somewhere between 40 and 50 criminal felony cases. Still these judicial vacancies are being perpetuated without basis or cause by a Republican leadership that refuses to vote on these well-qualified nominees.

I am told that last week a Republican Senator announced at a speech before a policy institute that he has a hold on the Morrow nomination. A press release stated that he had placed a hold on Margaret Morrow's nomination because he wants to ''be able to debate the nomination and seek a recorded vote.'' I, too, want Senate consideration of this nomination and am prepared to record my vote.

After being on the Senate calendar for a total of 7 months, this nomination has been delayed too long. I believe all would agree that it is time for the full Senate to debate this nomination and vote on it. I have inquired about a time agreement but gotten no response. Now that an opponent has finally come forward to identify himself, I look forward to a prompt debate and a vote on this nomination in accordance with the apparent commitment of the majority leader. I look forward to that debate. I ask again, as I have done repeatedly over the last several months, why not now, why not today, why not this week?

I again urge the majority leader to call up the nomination of Margaret Morrow for a vote. She has suffered enough. The people of the Central District of California have been denied this outstanding jurist for long enough. The chairman of the Judiciary Committee said last month that he had the assurance of the majority leader that she will be called up for a vote but neither has said when that will be. I hope that the majority leader will proceed to the consideration of this nomination and that he will support Margaret Morrow to be a district court judge for the Central District of California.

Madam President, the reason I say that I am concerned that the President had to speak to this is that we should not have to be reminded of our constitutional duties. Indeed, the President was right in reminding us of this. I have served here now with numerous majority leaders—Senator Mike Mansfield of Montana, Senator ROBERT C. BYRD of West Virginia, Senator Howard Baker of Tennessee, Senator Robert Dole of Kansas, Senator George Mitchell of Maine—and all of these leaders of both parties are strong partisans for their parties, but all shared the responsibility as majority leader that there are certain things the Senate must do, and it is the responsibility of the leader to see that the Senate does it. One of those things, of course, is to see that the Senate votes on Presidential nominations to the Federal bench. Now, every Senator can vote against any nominee. Every Senator has that right. They can vote against them this committee and on the floor. But it is the responsibility of the U.S. Senate to at least bring them to a vote. It is our responsibility under the Constitution, it is our responsibility to the Senate itself, it is our responsibility to the American public not to allow 1 Senator to determine for all 100 Senators whether a person will be confirmed to a Federal judicial position or not. All Senators should be allowed to vote, and today they are not.

We really have not done our job as Senators. We have not fulfilled our responsibility to the Constitution. We have not fulfilled our responsibility to this body. We have not fulfilled our responsibility to advise and consent. And we certainly have not fulfilled our responsibility to the American people or the Federal judiciary.

I hope we might reach a point where we as a Senate will accept our responsibility and vote people up or vote them down. Bring the names here. If we want to vote against them, vote against them. But time after time after time I hear that there are vacancies where people are really concerned, a lot of Senators have a concern about this person. Then we come to a vote and 99 out of 100 Senators or all 100 Senators vote for that person.

This is not a fair way to do it. This is not being responsible. This is something, frankly, as I have said to my good friend, the majority leader, and he is my good friend, this is something that none of the majority leaders I have served with have ever allowed to happen, Republican or Democrat. Why? Because it would not be responsible. Why? Because it affects the administration of justice. Why? Because it fails our responsibility to the American public. Why? Because it is beneath the Senate of the United States. We should get on with the process.

EXHIBIT 1

RADIO ADDRESS OF THE PRESIDENT TO THE NATION

The PRESIDENT. Good morning. I want to talk this morning about a very real threat to our judicial system. For more than 220 years our nation has remained young and strong by meeting new challenges in ways that renew our oldest values. Throughout our history our judiciary has given life and meaning to those values by upholding the laws and defending the rights they reflect, without regard for politics or political party.

That is the legacy of the judicial system our founders established, a legacy we recalled this Thursday on the 40th anniversary of the court-ordered desegregation of Little Rock Central High School.

But in the past 18 months this vital partnership has broken down as the Senate has refused to act on nomination after nomination. And in federal courthouses across America, almost 100 judges benches are empty. In 1996, the Senate confirmed just 17 judges—that's the lowest election-year total in over 40 years.

This year I've already sent 70 nominations to Congress, but so far they've acted on less than 20. The result is a vacancy crisis in our courts that Supreme Court Chief Justice William Rehnquist warned could undermine our courts' ability to fairly administer justice.

Meanwhile, our courts are clogged with a rising number of cases. An unprecedented number of civil cases are stalled, affecting the lives of tens of thousands of Americans—from the family seeking life insurance proceeds, to the senior citizen trying to collect Social Security benefits, to the small business protecting its right to compete. In our criminal courts nearly 16,000 cases are caught in limbo, while criminals on bail await punishment and victims await justice. Our sitting judges are overloaded and overworked, and our justice system is strained to the breaking point.

The Senate's failure to act on my nominations, or even to give many of my nominees a hearing, represents the worst of partisan politics. Under the pretense of preventing so-called judicial activism, they've taken aim at the very independence our founders sought to protect. The congressional leadership has actually threatened sitting judges with impeachment, merely because it disagrees with their judicial opinions. Under this politically motivated scrutiny, under ever-mounting caseloads, our judges must struggle to enforce the laws Congress passes and to do justice for us all.

We can't let partisan politics shut down our courts and gut our judicial system. I've worked hard to avoid that. And the people I've nominated for judgeships and had confirmed have had the highest rating of well qualified from the American Bar Association of any President since these ratings have been kept.

So today I call upon the Senate to fulfill its constitutional duty to fill these vacancies. The intimidation, the delay, the shrill voices must stop so the unbroken legacy of our strong, independent judiciary can continue for generations to come. This age demands that we work together in bipartisan fashion—and the American people deserve no less, especially when it comes to enforcing their rights, enforcing the law, and protecting the Constitution.

Thanks for listening.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ASHCROFT. 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. BYRD. I ask unanimous consent that upon the conclusion of the remarks by the distinguished Senator from Missouri, Mr. ABRAHAM be recognized to speak for not to exceed 10 minutes; that he be followed by Mr. BREAUX for not to exceed 7 minutes; that he be followed by the Senator from West Virginia, Mr. BYRD, for not to exceed 30 minutes; that he be followed by Mr. GRAMM of Texas for not to exceed 20 minutes; that he be followed by Mr. BAUCUS for not to exceed 20 minutes; that he be followed by Mr. WARNER for not to exceed 20 minutes.

The PRESIDING OFFICER (Mr. FAIRCLOTH). Without objection, it is so ordered.

Mr. BYRD. Mr. President, it may be those last four speakers will all cut their remarks a little short of what was included in the request.

Mr. ASHCROFT. Will the Senator yield?

Mr. BYRD. Yes.

Mr. ASHCROFT. I noted Senator FEINSTEIN came to the floor earlier. Did you mean to include her in any way?

Mr. BYRD. I haven't spoken with her. Did she indicate that she wanted some time?

Mr. ASHCROFT. She had at one time wanted to speak. I don't know whether she would want to be included. I think it might be appropriate to name her in the request in the event she decided to do so.

Mr. BYRD. All right. I ask unanimous consent that at the conclusion of the remarks of the Senators aforementioned, the distinguished Senator from California [Mrs. FEINSTEIN] be recognized for whatever time she may consume.

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

Mr. BYRD. I thank my friend from Missouri.

FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 1998

The Senate continued with the consideration of the joint resolution.

Mr. ASHCROFT. Mr. President, I rise to raise certain issues about the continuing resolution which is before the Senate. It is a plan to continue the operation of Government for the next several weeks while we finish the appropriations process. As you well know and as most of us are keenly aware, there are matters that are still in controversy in the committees which are convened between the House and Senate to try to arrive at a final appropriations measure or a series of final appropriations measures that we could send to the President.

One of those contentious appropriations measures is the Labor, Health and Human Services and Education appropriations bill. In that appropriations measure are a number of important things that relate to the future of the country. I submit, however, that none are more important than the components of this measure that relate specifically to the education of young Americans. If I were to try to rank the responsibilities of a culture, I would have to rank very close to the top of the list the responsibility to prepare the next generation to be successful and to survive. I suppose survival is more important than success, but the idea that we have to prepare the next generation is a very important idea, and we want to do more than just prepare it for survival. I think we want to prepare it for success.

The job of preparation has been labeled in a variety of cultures in different ways. I think we expect a lot of the preparation to take place in the homes of America. We expect a lot of parents, and I think we have found that over the course of time we succeed most when we expect a lot of parents and when we get high delivery from parents in terms of what happens to young people.

Parents are not expected to do it all, however. We have a pretty substantial education system in the country, public education if you will, which is designed to help prepare young people for their lives in the next century. I think the way in which we address those issues related to education is fundamental. It is very, very important. As the father of three children, all of whom went to public schools, I know how important it is, and I am delighted to say they are all doing pretty well now, although my youngest is still in college so we want to make sure he continues that particular practice of preparation.

Education is among the top priorities of a culture. The preparation of one generation, the development of the skills to survive and succeed in the next generation is a top priority, a top responsibility. That is one of the reasons it demands our focus when the Federal Government starts to expand its participation in or indicate its intention to interfere with education as conducted at the local level. When the President of the United States in his State of the Union Message this year indicated that he wanted to have a Federally developed test, that there would be a test given to every fourth grade and eighth grade student across the country and that that test would be used to measure the success or failure of education systems around the country, I think a lot of us sat up and began to take notice. When there is talk about having a Federal test, a sort of one-size-fits-all test, with a group of bureaucrats in Washington deciding what would be tested and what would not be tested and what teaching techniques would be honored in the test and what teaching techniques would not be honored in the test, you begin to raise questions about this most serious and fundamental part of preparing the next generation to both survive and succeed.

As a matter of fact, I think there is a role for Government, but I am not sure about a uniformity that comes from Washington, DC, that ignores or displaces the responsibility of parents and local school boards and teachers at the local level.

In my previous opportunities for public service, I had responsibilities at the State level. I was Governor of the State of Missouri for 8 years, and education was one of our top priorities. We wanted to do what we could to make sure that we got the best achievement. After all, we did not necessarily want education for the sake of the education community. The focal point of education is the next generation, and how well it prepares them, and so we want to target student achievement. We want to always be sensitive to what will be the operative set of conditions which will result in the greatest student achievement, because if we can get students to achieve and their preparation is high and their skill levels are strong, they will be survivors and succeeders in the next generation. They will be swimmers and not sinkers, and that is very important.

One of the things that I had the opportunity to do when I was Governor of my State was to lead the Education Commission of the States. This is a group of officials, legislators, Governors, and school officials from every State in America, and they come together with a view toward finding ways to sort of exchange information. They are able to share about what is working in a particular jurisdiction—it is a clearinghouse. It is a way to say maybe you ought to try this in your locality. Perhaps it would not work there but perhaps it would. What are ways we can improve?

The information we began to develop, at least I began to be aware of, was that perhaps the single most important operative condition in educational achievement by students is the involvement of parents. How deeply involved in the education progress and product and projects are the parents? If the parents really care, if the community, meaning first the family, which is the fundamental building block of communities, and, second, the teaching community and, third, the larger community, which we think of as our towns or neighborhoods, if all of those institutions assign a very high value to education and are deeply involved in education and feel engaged in the educational experience, wonderful things happen to student levels of achievement.

I think we could all figure out that would be the case just by using our common sense. But we never leave everything to total common sense when we are considering policy. We like to have surveys and we like to have education studies and control groups and

the like. But it is true that when families are deeply involved, when the local culture assigns a very high value to education, when they feel they are engaged, student achievement goes up substantially.

Let me give you the results of a 1980 report. It was published in ''Psychology in the Schools'', and it shows that family involvement improved Chicago elementary school children's performance in reading comprehension. Here is the data. One year after initiating a Chicago citywide program aimed at helping parents create academic support conditions in the home—in other words, involving parents in the schools—students in grades 1 through 6 intensively exposed to the program improved .5 to .6 grade equivalents in reading comprehension on the Iowa Test of Basic Skills than students less intensively involved in the program.

Now, if you really talk about an improvement which is .5 to .6 over the other students, you are talking about a 50 percent better performance or a 60 percent better performance. That means if normal students went up 1 year of study, these students with activated home environments and engaged parents went up 1.5 years to 1.6 years.

That is a real increase. I think some of our manufacturers, if they had the opportunity to get increases of 5 percent, not 50 percent, or increases of 6 percent, not 60 percent, in their output, they would have a tremendous competitive edge. But here is a study which says that when you actively engage parents, you get massive increases in the productivity in terms of the achievement levels of students. This happened when there was a contract signed by the superintendent, principal, teacher, parents, and student.

Note the involvement here. The school officials, the principals, the teachers, the parents, and the students. They stipulated that parents would provide a special place for home study, that they would encourage the child by daily discussion, attend to the student's progress in school and compliment the child on such points, and cooperate with the teacher in providing all these things properly. This is real engagement by parents. More than 99 percent of the students in the 41 classes, grades 1 through 6, held such contracts that were signed by all the parties. It is a clear example of the fact that student achievement skyrockets when you have a culture at the local level which is engaged in the development of school improvement policies. This study was from ''School-Based Family Socialization and Reading Achievement in the Inner-City,'' by H. J. Walberg, R. E. Bole, and H. C. Waxman in ''Psychology in the Schools.''

National surveys also demonstrate this. Listen to this: a national survey reveals that parental involvement is more important in high school achievement than is the parental level of education.

So what it is really saying is that having smart parents is not important in terms of your educational achievement. Having parents that care about what you are doing and that are involved in the educational process, that is what drives student achievement.

A 1989 report found that, although parent education level and income are associated with higher achievement in high school, when socioeconomic status is controlled, meaning if you will take socioeconomic status out, only parent involvement during high school had a significant positive impact on achievement. So the real operative condition of student achievement in the high school years—we already talked about the Chicago study which showed in grades 1 through 6 you had a 50 to 60 percent improvement performance—but in the high school years what really makes a difference is whether or not there is parental involvement.

The report documents that students who enjoyed the most parental involvement, the students who had the most reinforcement, the strongest input from their culture, the ones who had the parents who were most likely to be participants, were most likely to achieve higher educational levels than their counterparts who did not have such involvement.

It's kind of interesting. They developed a chart there. When parents were highly involved during high school, 80 percent of their students got additional education after high school. You see what this does for students is to energize them. They think, ''Education is important. I am going to get it. I am going to be involved in it.'' When parents were only moderately involved during their children's high school years, 68 percent of the students went on to studies after high school. When parents were not very involved, only 56 percent continued their education after high school. It makes a big difference.

These statistics show that students who have lots of involvement by their parents during their high school years were nearly 1½ times as likely to get some postsecondary education or a BS or BA degree, as students whose parents were not very involved. Further, students of highly involved parents are more than three times as likely to obtain a bachelor's degree than their counterparts whose parents were not very involved. This study used data from the 1980 ''High School and Beyond'' national survey conducted by the National Center for Educational Statistics, particularly focusing on 11,227 seniors who participated in the 1980 ''High School and Beyond'' survey, and in the 1986 followup documentation.

What we really have here is a fundamental understanding that when parents are involved in education, when parents are engaged in the educational process, students achieve. What I want to point out is when you have the President of the United States starting to nationalize schools by saying we are going to have a test and we are going to ask that everyone do, in school, what will show well on this test, you begin to say that you are going to test for a particular standard. And you begin to say we are going to make that standard up in Washington—not by parents, not by local school boards, not by interested parties in the community at the local level—but we are going to have a group of bureaucrats in Washington, DC, who are unreachable, uninfluenceable by local parents, who are going to design a test.

Of course, you know in order to pass a test you have to know basically what the test is wanting and you have to teach what the test wants. Once our schools begin the process of responding to the drummer in Washington, DC, teaching what that drummer wants instead of what is wanted at the local level, what is going to happen to parental involvement? How involved, how engaged, how important are parents going to feel when local school boards are no longer relevant? How successful are our students likely to be when their parents lose interest because no matter what they say they can't affect or change or direct the approach of their educational institutions, their schools?

I think the strong indication here is that when you start to dislocate parents from the process and put in their place a bureaucracy—one that is thousands of miles away in many instances—you pull the rug out from under student achievement.

The ultimate objective we are talking about is preparing the next generation to be survivors in the next century; to be succeeders; to be swimmers, not sinkers. And they do that best when their parents and the community is directly involved, has confidence in and is engaged in the education process. The absence of parental participation in that is, I think, a real threat to the success of our students.

Let me just take you to some more examples. California and Maryland elementary schools achieved strong gains in student performance after implementing partnership programs which emphasize parental involvement. If we say to the parents, ''You don't matter, you can't affect curriculum, you can't affect what is being taught, we are going to decide all that in a bureaucracy in Washington, you just do as you are told,'' how much parental involvement are we going to be able to expect?

I think people will really respond if they have the opportunity to look carefully and participate in the development of curricula and the way the schools are run. Here is the data from California and Maryland, both of which show strong gains in student performance after implementing what are called partnership programs, which emphasize parental involvement. A 1993 study describes how two elementary schools implemented a partnership program which emphasized two-way communication and mutual support between parents and teachers, enhanced

learning both at home and school, and joint decisionmaking between parents and teachers. Students at the Columbia Park School in Prince Georges County, MD, ''who once lagged far behind national averages, now perform above the 90th percentile in math, and above the 50th percentile in reading, after implementing the Partnership Program. Here is kind of an interesting thing. There are already ways to find out whether you are doing well, according to national averages. There are all kinds of tests that schools can implement in order to find that out.

What we are really saying here is that the operative condition is not some set of new computers or new set of reading materials. The operative condition is a culture at the local level which assigns value to education and is engaged and is working to improve education. Instead of students that were below the 50th percentile, they are now operating above the 90th percentile. That is a formula for success instead of failure. That's a formula for survival instead of difficulty in the next century.

Here is another example, one from the other end of the country. ''In its fourth year of the [partnership] program, the Daniel Webster School in Redwood City, CA, shows significant gains in student achievement compared to other schools in the district. Webster students have increased their average California Test of Basic Skills math scores by 19 percentile points.'' That means if they were at the 50th percentile before the partnership program, they were at the 69th percentile at the next testing period. They did this by having a situation in which parents were directly and substantially involved. ''In language,'' the study continues, ''most classes improved by at least 10 percentile points. ''

What I am really trying to say here is that there is a fundamental truth that when local governments and local education officials and parents are working together to determine the curriculum and to energize student involvement and behavior, they produce success rates in school which are literally phenomenal. Remember the first of those rates we talked about in Chicago? That was a 50- to 60-percent improvement over the other group that had not had as much parental involvement in the local program.

If we take the component of parental energy and parental involvement out of our schools by divorcing from local school boards the opportunities to shape curricula because we have a national test which requires that everyone teach material which will help them survive on the next national test, we will have done a grave injustice to the next generation. An increase in parent involvement leads to significant gains in student academic achievement in virtually every instance.

Here is one from Mississippi elementary schools. According to a 1993 report of the Quality Education Program, which is designed to increase student success in school by increasing parental involvement, student success was strengthened in seven school districts in Mississippi in 1989. Between the 1988–89 school year, which was before the program was implemented, and the 1990–1991 school year, the 27 participating schools, which serve 16,000 elementary school students, showed a 4.5-percent increase in test scores over control schools. So, just implementing a program for increasing parental involvement resulted in a very important increase in test scores in Mississippi. That program provided, of course, a number of ways to engage parents in the process of being involved in schools.

I think it is a real, serious threat to parental involvement, local control and a community and culture which cares about education when we say we are going to take the fundamental decisions about what is taught and how it is taught out of local hands and we are going to put it into the hands of bureaucrats in Washington, DC, who operate under a third level wing of the U.S. Department of Education, individuals appointed by the Secretary of Education but really accountable to no one.

Even our U.S. Department of Education stated, in a 1994 report, that ''when families are involved in their children's education in positive ways, children achieve grades and test scores, have better attendance at school, complete more homework, and demonstrate more positive attitudes and behavior.'' That sounds like the ultimate in what you could want. Here you have children who achieve higher grades and test scores, have better attendance, they complete more homework and they demonstrate more positive attitudes and behavior. How do you get that? You engage parents and the local community in building a culture which reinforces student achievement.

Sadly, Federal testing takes away local control and parental involvement. Education should be focused at the local level, where parents, teachers, and school boards can have the greatest opportunity to be involved in the development of school curricula and testing. The Federal Government should not impose its will on teachers, parents and school boards about the education of their children. We should not have a dumbed-down national curriculum imposed through the back door of a national test. There are ways to test. There are ways to test at the local level. There are ways to compare local achievement to the performance of individuals in other districts and across the Nation. There are tests which are given across the Nation on a voluntary basis. The Iowa Test of Basic Skills, the Stanford test, and a number of other tests are developed by private agencies. But they don't impose curriculum because they are selected at the option of the schools.

The hallmark of the education proposals being considered by the Congress, rather than being proposed by the President, is a hallmark of local control and parental involvement. Look at the things that we have been discussing in the U.S. Congress. We have discussed the idea of scholarships for District of Columbia school children, giving parents more choice and more opportunity for assigning their students to schools that are productive and schools that are helpful to their children. That is empowering parents. It is putting parents in the driver's seat instead of the nickel seats. I believe we want parents in those front seats.

We have proposed education block grants, which send dollars to the classroom instead of the bureaucracy and move decisions from Washington to the local school districts. The Senate of the United States voted not long ago to send the resources to the States, where the money could be invested in classrooms, where the money could be invested in teachers, where the money could be provided to make a real difference rather than to say that the power would be somehow drawn to Washington, DC, or somehow provided to bureaucrats in some part of the Department of Education.

Here is another thing we are considering, A-plus accounts, that allow parents to save for their children's education and to make choices on spending resources for education.

Another thing we have been talking about is charter schools, creating innovative schools that are run by parents and teachers, not a bureaucracy.

We have had an effort moving schools away from bureaucracy towards more parental involvement, more and more active participation, hands-on control and engagement by parents. That is the design of what we have been talking about in the U.S. Congress. Then the President comes along and says no, we need a program where we develop a test nationally. The fact of the matter is, if you test nationally you are going to drive the curriculum nationally. You have to teach to the test, in order to do well on a test. National testing transfers power from parents and schools to Washington. It is exactly the opposite of what we are trying to accomplish in education.

States, educators, and scholars all stress the importance of local control in education decisions, and many of them stress the dangers of losing such local control. Gov. George Allen of Virginia has developed widely acclaimed Standards of Learning for English, mathematics, science, history and social studies. And he stated the importance of educational reform at the grassroots level:

> If there is one important lesson we have learned during our efforts to set clear, rigorous and measurable academic expectations for children in Virginia's public school system, it is that effective education reform occurs at the grassroots local and State level, not at the federal government level.

That was in a letter sent to Congressman GOODLING on July 29 of this year.

Here is Theodore Sizer, a liberal critic of the national standards agenda, who acknowledges that who sets the standard and controls the curriculum is crucial. Listen to Ted Sizer, a noted education authority:

The ''who decides'' matter is not a trivial one. Serious education engages the minds and hearts of our youngest, most vulnerable, and most impressionable citizens. The state requires that children attend school under penalty of the law, and this unique power carries with it an exceedingly heavy burden on policymakers to be absolutely clear as to ''who decides'' and why that choice of authority is just. We are dealing here with the fundamental matter of intellectual freedom, the rights of both children and families.

Who decides? Theodore Sizer asks the question and says it is critical. Very few times would we let someone decide what is done who is not paying the bill, not footing the tab. I mean, we usually say that the person who makes the order gets to select from the menu.

Local governments and parents and communities pay 92 to 93 percent of all the bills for elementary and secondary education in the United States. The Federal Government pays about 7 percent. In most settings, we would say that the person who is picking up the tab should be able to pull the items off the menu to decide what he is getting. But through the back door of a national test developed by the Federal Government, we are in the position of saying to people, ''Yeah, you're going to have to continue with your 93 percent of the cost, but we're going to tell you what you have to teach and how you have to teach it; we're going to tell you we know better than you do, and we'll be able to figure out from a thousand miles away in a conference room in Washington what is better for you and your family and your community than you will.''

We have kind of gotten the genius of the democracy inverted. The genius of a democracy is not that the Government would impose its values on the citizens, it is that the citizens tell Washington what to do. I think in this instance, the citizens ought to say to Washington, ''Wait a second, we are picking up 93 percent of the bill here, we should make the decisions and we can make the decisions and we can make them effectively. To yield to the bureaucrats in Washington, DC, the right to say what is going to be taught and how it is going to be taught in our schools, no thank you.'' It would be a disaster. As a matter of fact, it has been known and understood to be a bad idea for a long time. Nearly 30 years ago, education Professor Harold Hand accurately framed the issue when discussing whether the Federal Government should institute a national testing program.

''The question before us then,'' Professor Hand said, ''is whether the national interest would be best served by embarking on a national achievement testing program in the public schools at the certain cost of relinquishing the principles of states and local control and of consent as these now apply to the public schools.''

He points out clearly that there is a certain cost and the cost is giving away your ability to control what is taught and how it is taught.

This is being asked of the American citizens in spite of the fact we are going to say you still have to pay for it. ''Ninety-three percent of the tab is still going to be yours, but we want to make that decision.''

I don't think there is any question about the fact that national tests will lead to a national curriculum. Acting Deputy Secretary of Education Michael Smith has said:

To do well on the national tests, curriculum and instruction would have to change.

So what we have here is an admission by those who are promoting the national test. Their admission is that they would expect to change the curriculum and to change instruction in order for people to do well on the national test. That is one of the reasons I think the Missouri State Teachers Association, made up of 40,000 teachers in the State of Missouri, has stated:

The mere presence of a federal test would create a de facto federal curriculum as teachers and schools adjust their curriculum to ensure that their students perform well on the tests.

Here you have it, 40,000 classroom teachers from the State of Missouri saying, ''Wait a sec, thanks but no thanks. We don't need a nationally directed curriculum that disengages the community, that disengages the parents, that disengages the local school board, principals and teachers and mandates from Washington what to teach and how to teach it.''

Test researchers George Madaus and Thomas Kellaghan point out that some advocates for national tests advance the argument that ''a common national examination would help create and enforce a common national core curriculum,'' and that ''national examinations would give teachers clear and meaningful standards to strive for and motivate students to work harder by rewarding success and having real consequences for failure.''

What that really means is, if they are giving them a common national examination and help enforce a common national core curriculum, then the local level is no longer respected. It means that individuals at the local level are no longer meaningful. How long can we expect parents to stay engaged and to be active participants and to endorse and reinforce what their children are doing if the parents are told, ''No thanks, we don't care for your input, we'll settle this with a group of folks behind closed doors in a bureaucracy in Washington, DC.''?

Prof. Harold Hand, speaking on behalf of the Association for Supervision and Curriculum Development in opposition to the development of national tests, said:

A national testing program is a powerful weapon for the control of both purposes and content of curriculum, no matter where in the nation children are being taught, and so leads to increasing conformity and restriction in curriculum.

When President Carter was considering a national test proposed by Senator Pell of this body in 1977, here is what Joseph Califano, Carter's Secretary of Health, Education and Welfare, warned—Joseph Califano is not thought to be a person who was some kind of iconoclast, who was more interested or only interested in States rights, but here is what he warned:

Any set of test questions that the federal government prescribed should surely be suspect as a first step toward a national curriculum.

That is a substantial statement from a Secretary of Education. He goes on to say, and this is striking:

In its most extreme form—

These are the words of Joseph Califano, President Carter's Secretary of Health, Education and Welfare. He says about a national test:

In its most extreme form, national control of curriculum is a form of national control of ideas.

I find that to be a rather striking statement. I don't know whether I would go so far as to say that, but I think it is pretty clear that we want parents and teachers and community members and local school boards to be in charge of what is taught and how it is taught in our local schools, especially when they are being asked to pay 93 cents out of every dollar committed and devoted to schools. I can't imagine saying to the parents, ''You don't matter anymore.'' I really don't like what that says to children when we tell them, ''Really, the kind of decisions about your future are so important we have to relegate them to Government in Washington, DC; we can no longer trust your parents to make those kinds of decisions.''

I think all of us know we want to say to children in their school system, ''Respect your parents; there are things you can learn from your parents, and if your parents are engaged with you in a partnership for learning, your test scores and your achievement will go up and your life will have a higher quality.''

It puzzles me to think that the President of the United States is suggesting that we should go to a national testing operation which would, as a matter of fact, drive curricula, and begin to take that control away from the local governmental entities and deprive parents of their participation in the development of educational opportunities for their young people.

There is a fundamental responsibility of our culture to help provide a basis through education for the survival of our children in the next century. If we do that effectively, we will be successful as a culture. But if we destroy the capacity of our young people to do well by nationalizing our schools and pulling the rug out from under those who

would otherwise at the local level be able to make good decisions regarding schools and be involved with their children's education, we will have done a disservice to this country, not only in this generation but in the next.

H.D. Hoover, the director of the Iowa Basic Skills Testing program, has noted:

> There is a whole history of trying to use tests to change curricula, and the record there is not particularly sterling.

So the point is with the idea of national tests, you drive national curriculum. Curriculum is, of course, the fundamental reason for school. It is what is being taught, and if we drive and we dislocate parents and we take people from the local community out of the situation where they can determine what is taught and how it is taught, we will have impaired the quality of our schools very, very significantly.

I am not against tests, and I don't want it to be said that I am against tests because I don't think you can really have education unless you test to see whether or not you make progress.

There was a time, there was a set of fads that came along that said we don't ever test anybody, we just hope they get excited about something and learn it and we don't give grades. You remember that. I unfortunately missed that. I was graded on almost everything I did.

But while I was teaching in college—and I spent 5½ years as an associate professor, assistant professor—there were some of these fads that came through where students wanted to take things pass-fail; just be really vague about our performance here and don't tell anybody whether we did well or did poorly.

Frankly, it was a cover for doing poorly. They would never ask that they take a course pass-fail if they thought they were going to do well in it. But, of course, they were going to slide by and, of course, suggest they take this pass-fail. I don't blame them. That makes sense.

So I am not against testing. I am in favor of testing. I think you can overtest. You can spend all your time testing and do too little teaching. You can spend too much resource in testing and too little in teaching. But in a balanced program of testing and teaching, providing accountability both for teachers and students, and providing accountability to the community, I am in favor of that.

But if you take that accountability and you impose it from a thousand miles away by a bureaucracy in Washington, DC, and you render powerless the people who are out there on the front lines, and particularly parents and school board members, and you basically have what you would call a national school board, so that they make the decisions in Washington—and the role of the local communities is to put up the money, but Washington decides what will be taught and how it will be taught—I do not think that really provides the energy and the incentive to get the job done well. As a matter of fact, I think it would be a disaster.

It is kind of interesting. A few years ago we had a rush to impose national standards. I may talk about that a little bit later. People rejected national standards because they were afraid there would be a change in curriculum based on national standards. Well, that is kind of interesting.

Terrance Paul of the Institute of Academic Excellence, has stated it this way:

> Standards don't cause change. . . . Tests with consequences cause change.

Of course, some people may say, ''Well, the President wants to give this test, but there won't be any consequence.'' Well, why give the test? Frankly, we want something from our testing —and testing time is a precious resource—we should use it effectively. We should use it at the local level to test, to see whether or not we are achieving what we want to do at the local level.

And to take that precious resource and to fill it up with tests from the national level, that you say will not have any consequence, makes little sense. And to use resources—it costs to make tests.

The President's program, all told, is to be in the $50 to $60 million range to develop tests for reading and mathematics. I think I could develop a test to see if people could add, subtract, and multiply and divide, and if they could read for a little less than that. Be that as it may, I am not one of those that would be on this national testing development group that the President has suggested.

The important thing is that no one should devise a test for the local community unless the local community asks for it. A local community has a great opportunity to purchase tests and to deploy tests, administer tests that are either developed at the local level or developed by some nationally known, well-reputed testing agency in the United States, like the Iowa Test of Basic Skills or some other analogous or similar organization.

There are a number of States—48 as a matter of fact—that have developed or are developing State standards and State tests. To switch in midcourse from these would have a disruptive impact on those State tests and State standards, because you are going to have to teach to the national test if we have a national test.

Teaching to that test will pull the rug out from under teaching that is designed to prepare individuals for the tests at the State level by supplanting or superseding State and school district efforts. A national test will undercut their efforts and impose a one-size-fits-all system.

I have a little story I like to tell about one size fits all, because I think one size fits all is one of the greatest ruses in history. It is a joke. If you were to order pajamas for your family out of a catalog that says, ''one size fits all''—and for all five members of mine, if you were to send the same set, I guarantee you that we would rename ''one size fits all'' to ''one size fits none.''

The value of this country is that we have a lot of different approaches to things. It is a major strength of this country. What would happen, for instance, if we were to take our computer industry—just an industry, for example—and decide that we were going to test all the computers in the same way, that they all had to have the same thing in them, they all have to meet the very same standards?

We would end up without competition, first of all. And we would end up without improvement because once people learned what the test was going to be, they would teach to that test and everybody would be uniform. We would not want it in industry. And we would not want it in automotives because we know that when people compete and they do what works best for them, we get the kind of energy in the economy and get the energy in our culture that provides for improvement.

Problems that would result from a national test are a national curriculum or national education standards. The National Assessment of Education Progress' science tests results show how the test can drive curriculum. Here is an article from today's Washington Post.

> Still, Education Secretary Richard W. Riley cautioned that the results may not be as dismal as they first seem. Student scores in science have improved substantially since the early 1980s, he said, and many schools are revamping how they teach the subject.

He said that revamping it, because of the new science test that the national group put out, that they went down in performance and they went against the trend that they had been going up in.

So we had a trend during the early 1980's of going up. Now they come out with a new test and they do not do well. And the Secretary of Education says, ''Well, they'll do better on the new test because they'll start teaching to this test.''

Well, first of all, if they were doing well on the other tests—or better—I wonder if we want to change and mandate the change through this curriculum or through a curriculum change that is imposed by this test, the National Assessment of Education Progress, the NAEP, test, which was in the paper today.

The scores were reported yesterday by the National Assessment Governing Board. ''Education officials said the latest test results present stark new evidence of a problem in how science is being taught.'' They brought out a new test and they found out students did poorly on the new test. So they said: ''Well, we have got to change how things are being taught. Too many schools, they contend, still emphasize

rote memorization of facts instead of creative exercises that would arouse more curiosity in science and make the subject more relevant to students.''

This whole endeavor suggests that they intend to shape how things are taught from the education bureaucracy. And they admit that that is the way change will take place.

In discussing proposed changes to the National Assessment of Education Progress, back in 1991, Madaus and Kellaghan described the danger caused by the momentum of instituting a national test. Here is their quote.

> Current efforts to change the character of [the National Assessment of Educational Progress] carry a clear lesson regarding the future of any national testing system. That is, testing and assessment are technologies. . . . Further, the history of technology shows us that ''Once a process of technological development has been set in motion, it proceeds largely by its own momentum irrespective of the intentions of its originators.''

What it means is you put a test in place, and people have to teach to that test. It develops a momentum of its own. And we are seeing that confessed in today's Washington Post. Students have been going up in their science evaluation, and the National Assessment of Educational Progress program comes in with a new type of science exam that says, ''We don't care what you know, we want to find out different things about how creative you might be.'' And they all of a sudden say that the science performance falls off because they do not want to know what students have learned, they want to know how curious they are.

I think it is important for us to do more than develop curiosity in students. It is important for us to develop learning in students. And the previous tests were showing that learning was taking place and the test scores were going up. So they changed the test, redirected the objective from learning to curiosity. And when it shows that they are not as curious as they wanted them to be, they say, ''Well, we're just changing the curriculum by keeping and giving this test over and over again, and pretty soon we will have curious students, although they may be ignorant of the kinds of facts we would want them to know.''

This is a serious problem. Experts point out that Great Britain's attempt to provide a national exam ''with a wide-achievement span seems to have been unsuccessful, not only in the case of lower-achieving students but is reported . . . to have lowered the standards of the higher-achieving students.''

These experts, Madaus and Kellaghan, point out that in Great Britain the attempt to provide a national exam with wide achievement span, meaning over broad areas, seems to have been unsuccessful not only in lower-achieving students—meaning that lower-achieving students are not doing better because of the exam—but also it is saw the standards of higher-achieving students go down.

This is a lose-lose situation. It would be one thing if we were able to pull up the guys at the bottom at the cost of the guys at the top, maybe losing some, but this says that when you have these broad exams in Great Britain, not only do the people at the bottom do worse, the people at the top do worse.

In assessing the Educate America program in their 1991 report, these same experts dispel the argument that a national test would not lead to a national curriculum:

> Educate America claims that their national test would not result in a national curriculum since it would only delineate what all students should know and what skills they should possess before they complete secondary school but would not prescribe how schools should teach. This assertion is disingenuous [according to the experts]. European schools have national curricula but do not prescribe how schools should teach. Through a tradition of past tests, however, national tests de facto constitute a curriculum and funnel teaching and learning along the fault lines of the test. Two acronyms describe what inevitably happens: WYTFIWYG—what you teach for is what you get—and HYTIHYT—how you test is how you teach.

If you are going to test for something, that is what you end up teaching.

These experts indicate that all over the continent of Europe, when you nationalize the testing you nationalize the curriculum.

Dr. Bert Green, professor of psychology at Johns Hopkins University notes:

> The strategy seems to be to build a test that represents what the students should know, so that teaching to the test becomes teaching the curriculum that is central to student achievement.

A nationalized curriculum dislocates parents. It sets them out of the operation, along with other members of the local community. They no longer have an influence on the central core of what a school is about, that is, what is taught and how it is taught. And once that is done, I think we make a very serious inroad into the potential for student achievement.

Lyle V. Jones, a research professor in psychology at the University of North Carolina at Chapel Hill, fears that efforts to recast classroom curricula will focus simply on teaching what will likely produce higher scores on national tests. Let me quote Professor Jones: ''The pressures to teach what is being tested are bound to be very large and hard to resist,'' he said, ''Particularly in schools where the teachers and principals know the results will be published, the focus will be on getting kids to perform well on the test rather than meeting a richer set of standards in mathematics learning.''

Marc F. Bernstein, superintendent of the Bellmore-Merrick central high school district in Seattle, worries that a national test will lead to a national curriculum. Here is what he said:

> I know that the president has not recommended a national curriculum, only national testing, but educators know all too well that ''what is tested will be taught.''

The point here is the choice. Someone will decide what is tested; someone will decide what is taught; someone will decide how it is taught. Will it be a group of individuals made up of parents, teachers, business people, community officials, who want a local school board to have a sensitivity to what is happening in the local school, and when something goes wrong can try something else, can mediate a problem? Or will it be a group of individuals in Washington, DC, in some conference room in the Department of Education, inaccessible, who do not pay the bill but who will impose a national curriculum that is not correctable at the local level when it flops, when it does not work, when it fails students, when it fails the community but still is enshrined in either the egos or in the minds or in the theories of people 1,000 miles or 2,000 miles away?

That is the question. It is simple. And I think we do not want to develop some backdoor entry to a national curriculum. These experts, expert after expert that I have been quoting, they say that if you develop the test, you develop the curriculum, you specify the curriculum.

The superintendent of the Bellmore-Merrick central high school district in Seattle says:

> I know that the president has not recommended a national curriculum, only national testing, but educators know all too well that ''what is tested will be taught.''

President Clinton remarked on May 23, 1997, at an Education Town Hall meeting—these are the words of the President:

> The tests are designed so that if they don't work out so well the first time, you'll know what to do to teach, to improve and lift these standards.

Let me read that again. This is a quote from the President of the United States.

> The tests are designed so that if they don't work out so well the first time, you'll know what to do to teach, to improve and lift these standards.

Basically, you will know, says the President, to change your curriculum. You will know how to teach differently. You will know how to remove the opportunity to decide curriculum from the local level and forfeit it to those who make the test in Washington, DC.

The Association for Childhood Education International notes, ''What we are seeing is a growing understanding that teaching to tests increasingly has become the curriculum in many schools.''

William Mehrens, Michigan State College of Education Professor, has noted that one major concern about standardized achievement tests is that when test scores are used to make important decisions, teachers may teach to the test too directly. Although teaching to the test is not a new concern, today's greater emphasis on teacher accountability can make this practice more likely to occur.

While basic skills are the most important thing for kids to learn, the proposed national tests contain high-risk educational philosophies and fads. It would be one thing if we thought the test would work or this test would help us get to the basics. I am afraid that they do not hold such promise.

John Dossey, chairman of the President's math panel to develop the math test, served on the 1989 National Council of Teachers of Mathematics group that criticized American schools' ''long-standing preoccupation with computation and other traditional skills.'' We have been too long preoccupied with addition, subtraction, multiplication and division. He is saying teaching kids the multiplication tables—whether 12 times 12 is 144 or 15 times 15 is 225, or 6 times 7—demonstrates our ''long-standing preoccupation with computation and other traditional skills.''

I believe that is what we need in our schools. We need to teach young people to be able to multiply, subtract, add, divide. His focus on what advocates call ''whole math'' would teach our children that the right answer to basic math tables are not as important as an ability to justify incorrect ones, to argue about incorrect ones. The ability to add, subtract, multiply and divide should be replaced, it seems, by calculator skills in students. These are ''whole math'' individuals, the people who want to start students with calculators so they are never encumbered by the responsibility of learning addition, subtraction, multiplication, and division. They can always do it on a calculator.

The proposed math test is steeped in the new, unproven ''whole math'' or ''fuzzy math'' philosophy, deemed by some as ''MTV math,'' which encourages students to rely on calculators and discourages arithmetic skills and has resulted in a decline in math performance.

Now, this is the sort of approach to mathematics taken by a group that the President has had working on these exams for quite some time—he has spent millions of dollars in trying to develop this, and we have talked about this previously. The last meeting convened at the Four Seasons Hotel here in Washington, DC. Their approach to mathematics is similar to this ''new-new math'' or the ''fuzzy math'' or ''MTV math,'' depending on how you characterize it.

This fad was tried, unfortunately, on our Defense Department dependent students. The Defense Department has to operate schools all over the world in order to make it possible for the dependents, the children of people who work in our defense operation around the world, to get an education. Here is what happened when they implemented this program in the Defense Department schools. The median percentile computation scores on the Comprehensive Test of Basic Skills taken by more than 37,000 Department of Defense dependent students one year after the Defense Department introduced whole math dropped 14 percent for third graders, 20 percent for fourth graders, 20 percent for fifth graders, 17 percent for sixth graders—this is not a laughing matter—17 percent for seventh graders and only 8.5 percent for eighth graders.

Now, that is the whole math, that is the new-new math or the fuzzy math. That is the kind of math that they want to test for in the new national test. It means you will have to be teaching it in order to survive on the test, and if we reorient the curriculum of this country across America to the so-called new math or fuzzy math woe be unto our ability in the next century for our young people to be able to make simple calculations.

These are the folks who say that calculation is not important, we have been too long focused on calculation. I disagree as totally as I could with the statement that we have been too focused on calculation. I think the average parents in America know we have not focused enough on teaching kids to add, subtract, multiply and divide. We have not overdone it. The fact we are in trouble in terms of mathematic or arithmetic literacy in this country indicates we have not focused on computation of skills, not that we have.

Five hundred mathematicians from around the Nation have written a letter to President Clinton describing the flaws in the proposed math test. They say that the committee members who developed the test relied on the National Council of Teachers of Mathematics standards, which represents only one point of view of math and has raised concerns from mathematicians and professional associations. No. 2 in their concerns, the test failed to test basic computation skills.

The President said we want to have a national test, and the math teachers, 500 of them, took a look and said, wait a second, these tests fail to test basic computational skills under the assumption that all the students will know these things already. I think that would be a tragedy to try to drive a curriculum, try to test under the assumption everybody knows how to add, subtract, multiply and divide, so you give everybody a calculator in the test.

One California parent's 11th grade daughter, who was in the whole math curriculum in a local district there, was diagnosed as having second-grade math skills. The mother panicked and got a teacher and began to teach at home what would not be taught in the schools. Parents in Illinois were advised to let their son work with a school counselor—and here is the reason they were told to do so—because ''he values correct and complete answers too much.'' I think counseling is indicated in a situation like that—but it is not for the student. There should be some counseling that goes on for the so-called educators.

Lynne Cheney, former chairman of the National Endowment for the Humanities, who, incidentally, tried to develop a national set of history standards and found out how difficult it was and how inappropriate it would be to try to impose the proposed standards on the students, has become an opponent of national standards and national tests. She wrote in the Wall Street Journal not long ago about Steven Leinwand, who sits on the President's math panel. Leinwand had written an essay, explaining why it is ''downright dangerous'' to teach students things like 6 times 7 is 42, put down the 2 and carry the 4. Simple multiplication. Such instruction sorts people out, Mr. Leinwand writes, ''anointing the few'' who master these procedures and ''casting out the many.''

Now we have people who are developing the national test who have such a low view of the talent pool in America that they say only a few students can learn 6 times 7 is 42, put down the 2 and carry 4. That kind of low understanding and low evaluation of America's future is not what we need in designing a curriculum through the back door of a national test. It is just that simple.

Students all over the world have arithmetic literacy. They have the capacity to compute fundamentally. They have the fundamental capacity to do arithmetic, addition, subtraction, multiplication and division. And to say that only a few could do it in the United States and is to undervalue our most important resource—that's the students who will make up the population of this great country.

I have to say this. If we have very, very low expectations of students, that will drive the levels at which they produce. There are books full of studies that say, if you have low expectations, you get low output; if you have high expectations, you get much better performance. Let's not turn this country over to a group of individuals who think that most American students are simply incapable of learning 6 times 7 is 42, put down the 2 and carry the 4.

I was pleased to have an opportunity to speak with the Senator from West Virginia here earlier this afternoon. Senator BYRD made a speech in June of 1997, a speech on a whole math textbook called Focus on Algebra. After looking at the textbook, he called it ''whacko algebra.'' We have his entire speech. It is an interesting speech in which he points out some of the real problems we have with this approach. He says:

> A closer look at the current approach to mathematics in our schools reveals something called the ''new-new math.'' Apparently the concept behind this new-new approach to mathematics is to get kids to enjoy mathematics and hope that ''enjoyment'' will lead to a better understanding of basic math concepts. Nice thought, but nice thoughts do not always get the job done. Recently Marianne Jennings, a professor at Arizona State University, found that her teenage daughter could not solve a mathematical equation. This was all the more puzzling because her daughter was getting an A in algebra. Curious about the disparity, Jennings

took a look at her daughter's Algebra textbook, euphemistically titled ''Secondary Math: An Integrated Approach: Focus on Algebra.'' . . . After reviewing it, Jennings dubbed it ''Rain Forest Algebra.''

I think the Senator may have been right when he said, ''I have to go a step further and call it whacko algebra.''

If that is the kind of new-new math, if that is the kind of whole math that this national test would impose upon citizens across this country and would literally say to individuals, ''This is what we will test, and you will have to take this test and you will be wanting to teach to this test,'' I think it is a terrible disservice to the next generation.

Now, the President has not only indicated he wants to have a mathematics test or a test of arithmetic or skills in that area, he wants to have a reading test. What I fear about tests is that they not only drive what is taught but they drive how it is taught. How you teach reading makes a tremendous difference in terms of your capacity in your life-long endeavor with the written word. Of course, we know that being able to read instructions and being able to read things is far more important than it has ever been in history. One philosophy for teaching reading is what is called the ''whole language approach,'' which doesn't really focus on phonics.

One of the real advantages of the English language is that we have letters. There are some languages that do not have letters. They just have pictures. Some of the Oriental languages just have pictures, and the picture, if you have never seen it before, really can't tell you how to pronounce it. It won't tell you what it might mean. It won't give you many clues of how to look it up because it is just a picture. If you don't recognize it, you don't recognize it.

With English, on the other hand, if you understand it phonetically, you look at it and you know that there are certain sounds that are associated with certain letters and combinations of letters. As you sound words out, it also provides a pretty easy way to look it up because we have the ability to have the dictionary and it is in alphabetical order. There is an order. There is a logic to phonetically understanding the English language. It is the capacity to take the language, a word you have never seen before, sound it out, and deconstruct the word and figure out what it means.

I think it would be a tremendous disaster if, instead of allowing schools to decide how they want to teach English, if we were to have a test constructed and from that test drive an approach to teaching English, for instance, that ignored phonics.

Now, I have to say this, and I have said it before, and I guess I will be saying it many times: I don't think we ought to have a national test even if it were one that I thought perfectly represented what ought to be taught. The point I think we have to understand is that parents deserve the right to shape the curriculum and the way it is taught at the local level. When parents have that right and can be involved in it, they are far more likely to be engaged in the educational effort and we go back to our primary understanding that when parents are involved in the education effort, students' achievements skyrocket. The whole purpose of education is not for teachers. It is not for school boards. It is not for parents. The purpose of education is for students. We should be doing those things which drive student achievement and performance, and parental involvement in the system drives student achievement and performance. Now, the President of the United States has come before the American people and he has said that the test would be voluntary. He says that these are going to be voluntary. Well, frankly, he wants everybody to pay for the tests. So you have to pay for them whether you would use them or not. I think if he really wanted them voluntary, he would say, if you don't use the test, you could get the money that would be spent if you did use the test to do other things. So a school district that had plenty of tests and knew what its weak points were and how it wanted to advance the interest of its students could spend the money on something worthwhile to them from what they already knew. Most good school districts know where they are weak and where they are strong and they know what they need to do.

The President said, though, this is going to be a voluntary test, you don't have to worry. Don't worry about a test that drives curriculum all over the country and makes it uniform and monotonous and dumbs down things to a single, low common denominator on the national level, because that won't happen. ''This is a voluntary test.'' That is the line, that is the statement, that is the oft-repeated sales pitch of the Department of Education. However, it is pretty clear that that is really not their intention. While the President has stated that it will be voluntary, and clearly indicated that in his remarks in the State of the Union message, he went to Michigan on March 10, 1997, just a couple months later, and said, ''I want to create a climate in which no one can say no.''

So much for your voluntary test. The President says he wants the test to be voluntary, but he goes to Michigan and says, ''I want to create a climate in which no one can say no, in which it's voluntary but you are ashamed if you don't give your kids the chance to do [these tests].'' I really think we need to get an understanding of whether this is voluntary or not. I think when you open the backdoor through national testing to the development of national curriculum and you displace the capacity of parents, teachers, school board members, and community members to develop what they want taught and how they want it taught, and to correct it when mistakes are being made at the local level, displace that with a national system of tests that directs curriculum and say they will be voluntary so there is not a problem, but then you go to Michigan and say you want to create a climate in which no one can say no, I will guarantee you that you properly raise suspicion on the part of the American people.

When the President of the United States decides what is voluntary and what is not voluntary and he tells you in one instance he wants it to be voluntary, but in another instance ''no one can say no,'' you have to consider the fact that the President has a lot of power, a lot of resources and a lot of money, a lot of grants, and other things that are available to the President through his department. He can say, oh, that is one of those school districts that decided they didn't need our testing system. You know, that indicates they are not very progressive, so they should not be able to participate in this, that, or the other thing. Or we certainly would not want to favor them with a visit from governmental leadership from the executive branch—or any number of things. The President himself says, ''I want to create a climate in which no one can say no.''

Now, I have heard about choices where no one can say no, and I have heard about people who were so attractive that no one could say no. But I don't think we want to create a situation or a circumstance in education where we have a nationally driven, federally developed test by bureaucrats in Washington, to which no one can say no. William Safire talked about the ''nose of the camel under the tent.'' He wrote, ''We're only talking about math and English, say the national standard-bearers, and shucks, it's only voluntary.'' Safire said this: ''Don't believe that; if the nose of that camel gets under the tent, the hump of a national curriculum, slavish teaching to the homogenizing tests, and a black market in answers would surely follow.''

It sounds to me like he has listened to what the President said in Michigan. Voluntary? Hardly. It is the nose of the camel, and a nationalized, federalized curriculum—a Federal Government curriculum will follow. If a State chooses to administer the tests, all local educational agencies and parents will not have a choice whether they want to participate. The truth of the matter is that this is the dislocation of parents, school boards, and communities, and it is investing power in Washington, DC, in a new bureaucracy to control curriculum and testing across the country.

Other Federal ''voluntary'' plans have ended up becoming mandatory. A Missouri State Teachers Association memo says: ''Experience in dealing with federal programs has taught us to be wary. For example, the 55 mph speed limit was voluntary, too—on paper, at

any rate. In practice, the speed limit was universally adopted because federal highway funds were contingent upon states' 'voluntary' cooperation. The point is that what is voluntary often becomes mandatory when you have federal programs and funds involved.''

The Department of Education stated in a September 16 memorandum that it is willing to use the leverage of Title I funds to gain acceptance for the proposed national tests—Federal funds linked to the proposed national tests. Voluntary? Hardly.

The memo says that the Federal agency will accept the national tests as an adequate assessment of the proficiency of Title I/educationally disadvantaged funds. This offer is totally inappropriate. It demonstrates how desperate the Department is to gain acceptance for these flawed Federal tests. Use of the tests is being linked directly with Federal funds. Today, the use of the tests for Title I students is ''permitted,'' or suggested, perhaps even encouraged. It is only a matter of time before it could be required.

An October 1990 study from the Ohio Legislative Office for Education Oversight revealed that 173 of the 330 forms, 52 percent of the forms, used by a school district were related to participation in a Federal program, while Federal programs provide less than 5 percent of education funding.

Here is what we have already. We have a National Government that is intrusive. It is responsible for more than half of the paperwork load that teachers are struggling under, and that school officials are struggling under, which displaces resources that might otherwise go to the classroom. So you have 52 percent of the paperwork at the Federal level and only 5 percent of the funding, according to the 1990 Ohio Legislative Office of Education Oversight. I don't think we need additional invasion by Federal bureaucrats to displace what ought to be done, which can be done, what is being done and can be done far more successfully at the local level with a Federal bureaucracy.

What happened when we tried this through a Federal bureaucracy in the past? What has been our success at imposing things we thought might be good? It is kind of interesting to look at the so-called ''National Standards for United States History,'' which were assembled in hopes of providing some sort of standard for history teaching. These standards were funded in 1991 by the National Endowment for the Humanities and the Department of Education for just over $2 million.

Here is what we got for our $2 million. If you think you want to invite the National Government in a bureaucracy, through a test, to begin to develop a curriculum and to set standards that have to be followed in every district, think about what happened to this effort to develop national standards. The National Standards for United States History do not mention Robert E. Lee, Paul Revere's midnight ride, and did not mention the Wright Brothers or Thomas Edison. Who made the grade with the revisionists, the educationists, the liberals who wanted to rewrite history? Well, Mansa Musa, a 14th century African king, and the Indian chief Speckled Snake had prominent display—but not these others. I would not be against adding some people to our history books, but I am against deleting the Wright Brothers and Robert E. Lee. The American Federation of Labor was mentioned nine times, and the KKK was mentioned over a dozen times. It was obviously an attempt to set standards that would make students ashamed of their country instead of giving them an awareness of what their country was all about.

Lynne Cheney criticized the National Standards for U.S. History, in spite of the fact that she was the chairperson of the National Endowment for the Humanities when the Endowment contributed to the funding for the standards project. She said that the U.S. history standards were politically biased. She cited a participant in the process who said the standards sought to be ''politically correct.'' What a tragedy that we would take an effort to our classroom that we were trying to make politically correct and impose that instead of the truth to people about our history. Cheney also said that the standards slighted or ignored many central figures in U.S. history, particularly white males. The standards were uncritical in their discussions of other societies. The standards were unduly critical of capitalism. The economic system, which has carried the United States into a position where it is the best place in the world to be poor, not the best place to be rich. You can get richer in some other place, but the poor of America are better off than the rich in many places around the world. But, no, the standards were unduly critical of capitalism, so writes Lynne Cheney, chairman of the National Endowment for Humanities at the time it funded this effort to build standards. In testimony before a subcommittee of the House Economic and Educational Opportunities Committee, she reiterated concerns about the history standards and concluded that national standards were not needed in any subject area, much less any entity to certify or approve them.

So that is what Lynne Cheney, who had experience with national standards, said when they tried a bureaucracy in Washington to dictate a history standard. She said it was a failure. She spent our money doing it, but she had the courage to stand up and say it ended up with a bunch of politically correct stuff that was inappropriate to use as teaching tools for our children.

Finally, George Will attacked the failed history standards as ''cranky, anti-Americanism.''

The English/language arts standards were such an ill-considered muddle that even the Clinton Department of Education cut off funding for them after having invested more than $1 million dollars. Over and over again, when there have been national efforts to establish standards, create curriculum, to develop tests, they have to suspend the effort because they get bogged down in politically correct language, they get bogged down in the compromise of politics and end up not speaking to the students' real needs, which is for education.

Can you imagine a politically driven math test that is not concerned about computing—adding, subtracting, multiplying and dividing—but is concerned about making sure that we don't offend anybody? Frankly, we need to be able to add, subtract, multiply and divide. To say that it doesn't matter whether you get the right number, that if you just get close, sounds a little bit too much like Washington, where people around here mumble ''close enough for Government work.'' Well, if you are having your appendix taken out or you are having your teeth filled by a dentist, you hope they would not have that attitude toward mathematics or anything else. There are a lot of things that are relative in the world, I suppose. But one thing is not—we ought to be able to say to people that 2 plus 2 equals 4, and 2 plus 3 doesn't. It is hard to say to students that there are any absolutes left in the culture, but at least we ought to be able to say to them there are some absolutes. You can find them, at least, in the mathematics curriculum.

Well, USA Today reported that according to Boston College's Center for Study of Testing, children are already overtested, taking between three and nine standardized tests a year. The truth of the matter is, States and communities are already testing students. They are keenly aware of the need to improve performance, and to subject students to a national test on top of the testing that is already being done is to basically impose a resource allocation judgment by the Federal Government on the people who are at the State level and at the local level, who know how much testing is appropriate. Can you imagine that the State and local folks have been testing too little purposely for a long time in hopes that there would someday be a Federal test arrive which could take a day of their activities, or 2 days of their activities, and take resources and funding away from the teaching curriculum and add it to the testing curriculum? No, I don't think that is the case.

I think we have been having teachers and school officials deciding how much testing is appropriate, testing that amount, making sure that they had tests that could compare them to relevant groups.

We talked at the beginning of my remarks today, and that was some time ago, about school districts that have moved up dramatically compared to

the national average. National averages are available today and international averages are available today. As a matter of fact, when we went to the Washington Post to talk about the new science results in the United States, we found out that we fell against international averages. We fell in large measure because we decided we would test for something else instead of testing for the hard science that the international averages are involved with.

If there is in this proposal for national testing—and obviously it is the one that is now being debated between the House and the Senate in the conference committee—a proposed national body which would develop a national Federal test with the Federal Government directing it through the Department of Education, it is important to note that this is still going to be Government. They may say that it is independent. It is not. It is the National Assessment Governing Board which would continue to get Federal appropriations for all of its activities through the National Center for Education Statistics, an arm of the U.S. Department of Education. This board, although it would have Governors and some local officials on it, would be a limited group of people that would operate in Washington, DC, under the direction and control of the Department of Education.

The Secretary of Education would still make final decisions on all board appointments. The Assistant Secretary for the Federal Office of Education Research and Improvement would still exert influence as an ex officio member of the National Assessment Governing Board.

While the House voted overwhelmingly by a vote of 295 to 125 to not allow one cent to go for national testing, the Senate-passed proposal would provide a new assessment governing board which would add a Governor, two industrialists, four members of the public and remove five individuals who are currently members of the board. But it would still operate in the U.S. Department of Education under the National Center for Education Statistics. The Secretary of Education would still make final decisions on all board appointments. The Assistant Secretary would be the person who drove the ship as an ex officio member of the board and as, obviously, a representative of the Department through which all the funding would flow.

Now, the National Education Standards and Improvement Council, part of Goals 2000, was repealed April 26, 1996, a little over a year and a half ago, over concerns that it would function as a national school board, establishing Federal standards and driving local curriculum. I think it is fair to say that we had good judgment there. We said, wait a second, we don't want something that establishes a national curriculum, that establishes national standards. We saw how bad that was with the history standards. The history standards were repudiated unanimously by the Senate because they were just politically correct items that were revisionist history, designed, as I said, to make students ashamed of the country rather than to inform students about the country. And at the time the National Education Standards and Improvement Council was repealed, because there were concerns it would function as a national school board, it was said on this floor that ''it is logical to presume that once a national standard has been set and defined by some group which has received the imprimatur of the Federal Government, you will see that standard is aggressively used as a club to force local curriculums to comply with the national standards * * * it was a mistake to set up the national school board, NESIC.''

Well, if it was a mistake to set up a national school board under the nomenclature of an education standards and improvement council, it is a mistake to establish a national school board under the label of a test development committee.

It was further said in the Chamber that ''the National Education Standards and Improvement Council should never have been proposed in the first place. It was a mistake and we should terminate it right now. The Federal Government does not have a role in this area, and it certainly should not be putting taxpayers' dollars at risk in this area.''

Well, if that was a mistake in 1996, where they had no authority to propose a national test to be imposed on every student in America to drive curriculum, it is certainly a mistake now. And the number of letters or the identity of the letters which label the federal bureaucracy doesn't change the facts.

A single national test for students was rejected by the only congressionally authorized body ever to make recommendations on national testing. The National Council on Education Standards and Testing was authorized in 1992 by the Congress, and its final report concluded that ''the system assessment must consist of multiple methods of measuring progress, not a single test.''

Whether you allow test development and implementation through the Department of Education or through the National Assessment Governing Board, the fatal flaw is that we would be allowing the development of a test which would drive curriculum. When you drive curriculum from Washington and you make it impossible for people at the local level to decide what they want taught and how they want it taught and you deprive them of the ability to correct mistakes—if it is not working, they can't change it because it is all driven from the national level—you are forfeiting a great opportunity to make the kind of progress educationally which will make those who follow us survivors and succeeders.

As I said when I had the opportunity to begin making these remarks, the genius of America is bound up in our ability to hand to the next century, the next generation, a set of opportunities as great as ours. I firmly believe we have that opportunity and we have the responsibility to make sure that the next century is characterized by individuals who are capable. If we decide to spoil that opportunity by ruining our education system with a one-size-fits-all, dumbed-down curriculum that is driven by national, federalized testing that comes as a result of a bureaucratic organization in Washington that could only honestly be labeled as a national school board, we will have failed in our responsibility to protect the future of the young people in this country.

Some have concluded that the public is demanding what the President says he wants to provide. Nothing could be further from the truth. I seldom cite polls in things that I say because I don't want to be poll driven. I do not want to follow polls around. I want to try to find out what is the right thing to do. Living by polls is like driving down the road looking in the rear view mirror to find out what people thought a little while ago. We need to be driving down the road finding out where we need to be and where we want to go.

But there are those who say that, well, we can't say to the American people they should not embrace the President's proposal because the American people want the President's proposal. Here is what the Wall Street Journal said about that. This was quite some time ago:

> The Wall Street Journal/NBC national poll found that 81 percent of adults favor President Clinton's initiative, with almost half the public strongly in favor and only 16 percent opposed.
>
> But when asked whether the federal government should establish a national test—with questions spelling out the pro and con arguments of a standard national accountability vs. ceding too much power to the federal government—the public splits 49 percent to 47 percent, barely in favor.

This is fewer than half the people. With just one moment of explanation, all of a sudden the so-called 81 percent endorsement crumbles. When the real facts of the proposed federalized national test mandated by a group of folks acting as a national school board, in effect, in Washington, DC, reach the American people, they are going to know that is not the recipe for greatness. That is a recipe for disaster.

I have to say this is a little bit like the health care program that got so much support early on, but the more people knew, the less they liked it. One academic writer whom I will have an opportunity to quote when I speak again at another time says that the worst thing that could happen for the President would be for this plan for testing to be implemented because people would find out the disaster that it would really cause in the event it were implemented.

Our primary objective must be preparing the next generation educationally for the future, and we cannot pull

the rug from beneath the components that make education a success—parental involvement, a strong culture supporting education at home, local control, the ability to change things that are failing, and the ability to adjust at the local level. A national bureaucracy cannot get that done. It is something that we must not embrace. National federalized testing is a concept that must be rejected if we are to save the opportunity for the future for our children.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

Mr. ABRAHAM. I thank the Chair. I appreciate being recognized.

INS PURSUIT OF CRIMINAL ALIENS

Mr. ABRAHAM. Mr. President, I would like today to speak briefly about an issue that pertains in large measure to the Subcommittee on Immigration, which I chair.

In the last several months, a number of incidents have come to our attention involving the pursuit by the Immigration and Naturalization Service of aliens, sometimes legal immigrants with American citizen spouses and children, for deportation based on one crime committed years ago. These crimes have on occasion been crimes like forgery, and some individuals have apparently been pursued where they did not even have a conviction.

I would like to make a few brief remarks on this because I, along with Republicans and Democrats, made efforts last Congress through the illegal immigration bill to improve the INS' poor record of removing deportable criminal aliens.

Our goal was to deport convicted criminal aliens starting with the thousands currently serving in our jails and prisons. I believe that law-abiding people, not hardened criminals, should be filling our priceless immigration slots. Yet, until last year's bill, only a tiny percentage of deportable criminal aliens were actually being deported.

This happened because of a number of weaknesses in the immigration enforcement system. First, there were only very limited efforts to identify deportable criminal aliens, particularly in our State and local prison systems. This meant that the INS was not even learning about the vast majority of deportable criminal aliens.

Second, where deportable criminal aliens were identified and where deportation proceedings were begun, those aliens were frequently released into the community and, not surprisingly, were never heard from again.

Finally, in those rare instances in which deportation proceedings were begun and criminal aliens were detained, they were able to take advantage of delaying tactics and loopholes in our immigration law to significantly increase their chances of staying in the country or, at a minimum, lengthening their stays. In addition, the INS was often limited in its ability to remove criminal aliens due to the definition of deportable crimes under the old laws. Given the reality of the plea bargaining process, we wanted to broaden INS's ability to deport serious criminals who should be deported where they might have pled down to a lesser offense.

We took steps to address each of these flaws in the system. We increased INS's resources so they could identify deportable criminal aliens. We enhanced detention requirements to reduce the risk of flight. We removed criminals' abilities to delay deportation, and we closed loopholes in our immigration laws. We also increased the number of crimes for which criminal aliens could be deported, both to reflect the realities of our criminal justice system and to enhance the INS's abilities to go after hardcore criminals who should not be permitted to remain in the country.

Through all of this, we had assumed that the INS would focus their limited resources and manpower on deporting more serious criminals who had more recently committed crimes, especially those currently in prison. However, either because of an inability to set priorities, difficulty in interrelating the many different sections of the new immigration bill, or a combination of both, the INS seems to be pursuing some seemingly minor cases aggressively—by even, we are told, combing closed municipal court cases and old probation records—while letting some hardened criminals in jail go free.

Accordingly, I will be conducting investigative hearings of the Immigration Subcommittee to determine why this is happening and what is needed to clearly establish the right priorities. This particularly concerns me given the INS's continuing inability to detain and process deportable criminal aliens despite all the enhanced enforcement authority we gave them in last year's immigration bill.

Let me speak for a moment about a report issued just last month by the inspector general of the Department of Justice, which provides just one example of the troubling concerns about the INS's handling of criminal aliens. The inspector general's report dealt only with the Krome detention facility in Miami, which has attracted a great deal of attention and which ought to be one of the better run detention facilities at this point. While the IG's report covered a wide range of issues at that facility, what he found with respect to the release of criminal aliens is quite disturbing.

For example, the inspector general found that from a sample of 28 criminal aliens released into the community in June of 1997, 9 of the 28 had ''known criminal records or indications of potential serious criminal history'' and 4 of the 28 had ''insufficient evidence in the files to indicate a criminal history check was even performed before release,'' something the INS's written policies require.

Here are some of those aliens that INS released:

A criminal alien who was convicted in 1994 of conspiracy to commit aggravated child abuse and third-degree murder in connection with the killing of a 5-year-old child. She had committed bank fraud in 1982, and her INS file clearly indicated that she had been convicted of an aggravated felony. She was released by the INS this past June without deportation proceedings being initiated.

Another alien was convicted in 1988 of cocaine trafficking, an aggravated felony, and was imprisoned in Florida. In 1994 the alien was processed by the INS and released on his own recognizance. Deportation proceedings were never completed. Although the INS served him with a warrant for arrest in June of 1997, they released him on bond the next day.

Yet another alien had several convictions in 1992 related to drugs, tax evasion and engaging in a continuing criminal enterprise. In 1982 the alien had entered the country without proper documentation and was placed into exclusion proceedings but was not detained. He only came to the INS's attention again after the 1992 convictions. As a result of those convictions, he was initially sentenced to 12 years in Federal prison, which was later reduced to 88 months. In June of 1997 he was taken into custody by the INS upon his release from Federal prison. Unfortunately, once again the INS just let him go. He was released the same month.

These are just a few examples, but they highlight the urgent need for oversight into the identification and removal of deportable criminal aliens. We simply must ensure that our immigration priorities are set properly so we can guarantee that dangerous and deportable criminal aliens are not permitted to remain on our streets and in our communities.

I look forward to working with my colleagues on the Immigration Subcommittee to address these issues.

I yield the floor.

The PRESIDING OFFICER (Mr. ABRAHAM). The Chair recognizes the distinguished Senator from Texas.

Mr. GRAMM. Mr. President, Senator BYRD from West Virginia had, through a unanimous consent request, reserved time for himself and for two other authors of a major amendment to the transportation bill to speak.

In the interim, Senator BREAUX, I think, was scheduled to speak for 7 minutes. Senator BREAUX is not here. So, rather than hold up the Senate, what I would like to do is to go ahead and speak out of order, and I ask unanimous consent to be able to do that.

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

HIGHWAY FUNDING

Mr. GRAMM. Mr. President, when the distinguished Senator from West Virginia reaches the floor and is recognized, he will introduce an amendment that he and I are introducing with Senator WARNER and Senator BAUCUS. It is a very important amendment. It is the culmination of a long debate about highway funding and about using trust funds for the purpose that the trust funds are cumulated. My colleagues have heard a great deal about this debate to this point. They are going to hear a lot more about it in the next few days. But I wanted to outline how we got to the point of offering this amendment. I think it is a very important vote. I think it is important that it be an informed vote. So let me go back to 1993. What I want to do is outline how we got to the point that we find ourselves today. I then want to talk about the amendment, and I will leave the great preponderance of the details up to Senator BYRD.

In 1993, as part of the initial budget adopted with the new Clinton administration, the Congress adopted a 4.3-cent-a-gallon tax on gasoline. For the first time in the history of the country since we had the Highway Trust Fund, this permanent gasoline tax did not go to build roads or to build mass transit. Unlike any other permanent gasoline tax that we had adopted since the establishment of the trust fund, it went to general revenues.

When we had the debate, obviously much objection was raised to the fact that we were taxing gasoline and not funding roads. On the budget resolution this year, I offered an amendment that called on the Senate to do two things: One, to take the 4.3-cent-a-gallon tax on gasoline—which is an annual revenue, by the way, of about $7.2 billion—to take that money out of general revenue and put it into the Highway Trust Fund, where historically permanent gasoline taxes have always gone. The second part of this amendment was to require that the money be spent for the purpose for which it had been collected as part of the Highway Trust Fund, and that is that the money be spent to build roads. That amendment was adopted with 83 votes in the Senate. Every Republican except two voted for the amendment; 31 Democrats voted for the amendment. It was a strong bipartisan declaration of the principle that when you collect money from gasoline taxes that that money ought to be used to build roads as part of the user fee concept which has always been the foundation on which we have had gasoline taxes.

When we passed the tax bill this year, I offered an amendment in the Finance Committee to take the 4.3-cent-a-gallon tax on gasoline away from general revenue and to put it into the Highway Trust Fund. That amendment was adopted in the Finance Committee and that amendment was part of the tax bill both times it was voted on in the Senate. Those who opposed the amendment contemplated offering an amendment to strip away that provision and, after looking at the level of support in the Senate, decided not to offer it. As a result, in the new tax bill the transfer of the 4.3-cent-a-gallon tax on gasoline became the law of the land and it now is going into the Highway Trust Fund where historically our gasoline taxes have gone.

Now, in this last month, the transportation bill, the highway bill, was reported out of committee, but that highway bill did not provide that any of the funds from the 4.3-cent-a-gallon tax on gasoline be spent for roads. What would occur if in fact the bill as written by committee were adopted is that we now have—if you will look at this chart—we have $23.7 billion of surplus in the Highway Trust Fund. What that really means is that over the years we have collected $23.7 billion to build roads, but rather than building roads with those funds we have allowed that money to be spent for other purposes. And as a result, Americans have paid taxes on gasoline but that money has not been used for the purpose that they paid the taxes. Now, as a result of the adoption of the amendment that I offered on the Finance Committee bill, the 4.3-cent-a-gallon tax on gasoline is now going into the trust fund and, if we don't amend the transportation bill before us, by the year 2003 we could have a surplus in the Highway Trust Fund of $90 billion.

What does that surplus mean? It is simply an accounting entry to say that we have collected $90 billion that we told the American people would go to build roads, we have collected it by taxing gasoline, and yet every penny of that $90 billion will have been spent but not on roads. It will have been spent on many other things—some worthy, some not so worthy—but it will not have been spent for the purpose that the money was collected in the first place. And that purpose is to build roads.

The amendment that Senator BYRD and I are offering will basically do this. It will take the 4.3-cent-a-gallon tax on gasoline and it will allow it to accumulate for a year. And then, after the accumulation has occurred for 1 year, it will commit that revenue for the purpose that it was collected: To build roads. What it will mean is that over the period of our bill it will authorize about $31 billion of additional funds to build roads, and the actual expenditure will be about $21 billion.

If we don't pass this amendment, what will happen is this $90 billion will be collected, it will not be spent for roads, and every penny of it will be spent for something else. Senator BYRD the other day likened this procedure to the story of Ananias in the Bible, where, in the book of Acts, Ananias has sold his worldly goods to give the money to the new, fledgling church, only Ananias holds back part of the money. And God not only struck Ananias dead but struck his wife Saphira dead.

In a very real sense, what we have been doing on the Highway Trust Fund is we have been engaged in an action which is basically deception. We have been telling people that they are paying taxes to build roads when they pay at the gasoline pump, and we have not been building roads. We have, in fact, been spending that money for other purposes. The amendment that Senator BYRD will offer for himself and for me, for Senator WARNER, and Senator BAUCUS, will simply take the 4.3 cents of revenues and assure that they are, in turn, spent for the purpose that the tax is now collected, and that is building roads.

I would note that even under our amendment, the unexpended balance of the trust fund will grow from $23.7 billion today, to at least $39 billion by the year 2003.

The issue here is, should money that is collected for the purpose of building roads be authorized for expenditure for that purpose? Or should we continue to allow it to be spent for other purposes?

Let me address the issue of the budget. Nothing in our amendment busts the budget. Nothing in our amendment increases expenditures by one thin dime. Nothing in our amendment will allow the budget deficit to grow. All our amendment does is require that the funds that are collected on the gasoline tax to build roads be authorized to be expended on building roads. Obviously we cannot require, in the transportation bill, that the Appropriations Committee appropriate the money each and every year to fund the authorization. But I would remind my colleagues that 6 years ago we wrote a highway bill and we set out in that highway bill the authorization levels that would allow appropriations, and that highway bill, through 6 long years, was never changed.

Some of our colleagues will argue, ''Well, let's not authorize the building of roads with taxes collected to build roads now, let's wait a couple of years and write another budget and make a decision.''

Our decision today is about whether or not we are going to be honest with the American people and whether or not we are going to spend money collected to build roads for the purpose that they are collected.

That basically is the issue. This is not an issue about total spending. Nothing in our amendment changes total spending. It is an issue about truth in taxing, and that is, when we tax people on a user fee to build roads, do we build roads with the money or do we allow it to be spent for other purposes?

In our amendment, we say that we are not raising the total level of spending, but we make it clear we are serious about funding highways. We say that if savings occur in the future relative to the budget agreement and if Congress decides to spend any of those savings in the future, that those savings must be used to fully fund highways and meet the obligation that the

revenues collected in this gasoline tax be used for the purpose of building roads.

So there will be many issues debated, but they really boil down to a very, very simple issue: When we are imposing a tax on gasoline, a tax that people are paying when they are filling up their car and truck, and we tell them that that money is being spent for roads so that they are beneficiaries of the tax they are paying, are we going to fulfill the commitment we make to them when we tell them that or are we going to allow, incredibly, $90 billion to be collected over the next 6 years where people are told the money is going to build roads but, in reality, the money goes to fund something else?

There are many ways you can debate this issue, but it all comes down simply to priorities. What the Byrd-Gramm amendment will do is fulfill the commitment we have made by authorizing that funds collected in the gasoline tax be available to build highways. That is the issue. We do not change the formula in allocating the funds. We meet the same requirement the committee met, and that is, we guarantee that for the first time, every State, at a minimum, will get back 90 percent of their share of the gas taxes they send to Washington, DC. As a person who is from a donor State, which means we are currently getting 77 cents for every dollar we send to Washington, that is a dramatic improvement.

The amendment that Senator BYRD will be offering on behalf of some 40 or 50 cosponsors is an amendment basically that will allow us to fulfill the commitment that we have made to the American people.

So I am very proud to be an original cosponsor with Senator BYRD of this amendment. I think it is a very important amendment. I hope our colleagues will look at it. I hope they will decide that it is time to tell the American people the truth. It is time to stop collecting gasoline taxes and then using those gasoline taxes for purposes other than building roads.

I yield the floor.

The PRESIDING OFFICER. Under the previous agreement, the Senator from Louisiana is to be recognized for 7 minutes.

Mr. BREAUX. I thank the President.

Mr. President, I want to associate myself with the remarks of the Senator from Texas. I think what he and Senator BYRD are doing is the correct thing to do. I am proud to be a cosponsor of their amendment and hope that the Senate recognizes that this makes a great deal of sense and is the right policy as well.

(The remarks of Mr. BREAUX pertaining to the introduction of S. 1308 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. BREAUX. Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is now recognized for up to 30 minutes.

Mr. BYRD. I thank the Chair.

Mr. BYRD. I thank my distinguished friend, Mr. GRAMM, who has spoken already on this subject. And I thank Mr. WARNER and Mr. BAUCUS, both of whom will speak. I thank them for being chief cosponsors of the amendment along with me.

I should state at this point that there are 40 Senators, in addition to myself, who will have their names on this amendment. I will not offer it today except to offer it to be printed. And at such time as I do offer it, I will then add additional names by unanimous consent.

So in the meantime, if any Senators wish to cosponsor the amendment, if they will let either me or Mr. WARNER or Mr. BAUCUS or Mr. GRAMM know, we will act accordingly and have their names added at the appropriate time.

Mr. President, S. 1173, the reauthorization of the Intermodal——

Mr. WARNER. Mr. President, would the distinguished Senator yield?

Mr. BYRD. Yes.

Mr. WARNER. Because this is such an important announcement you are making, and having had the opportunity to work with you and the others on this, there are 41 cosponsors, but we also know of others who made personal commitments to us over and above the 41 that intend to vote for the amendment.

Mr. BYRD. That is right. And I am glad the distinguished Senator from Virginia, Mr. WARNER, has pointed that out. I have had several Senators say, for one reason or another, they would not cosponsor the amendment but that they intended to vote for it when the time comes. I am glad the Senator has brought that to the attention of the Senate.

The reauthorization of the Intermodal Surface Transportation Efficiency Act, or ISTEA II as it is often referred to, will set the authorization levels for the next 6 years for major portions of our national transportation system. And I congratulate the distinguished majority leader, Senator LOTT, for his decision to take up this 6-year bill rather than the 6-month extension proposed by the other body.

In the end, however, the committee did not report a bill that in my view provides sufficient highway funding authorizations for either the Appalachian Development Highway System or the entire National Highway System.

The levels reported were constrained by the allocation of budget authority provided to the Committee on Environment and Public Works by the budget resolution. And that allocation does not allow anywhere near the levels of highway authorization that can be supported by the highway trust fund revenues over the coming 6 years, nor the levels that are seriously needed to prevent further deterioration in our National Highway System.

Senators will recall that last year I, along with Senator GRAMM and other Senators, urged the leadership to allow us an opportunity to vote on an amendment to a tax measure to transfer the 4.3 cents per gallon gas tax which was going toward deficit reduction into the highway trust fund where it could be used for increased highway and transit spending in the coming years. At the request of both the majority and minority leaders, I deferred offering such an amendment during last year's session.

On May 22 of this year, I joined 82 other Senators in voting for an amendment by Senator GRAMM in support of transferring the 4.3 cents gas tax—Mr. President, I think I left my cough drops in the office. I can assure all Senators, however, I do not have whooping cough nor do I have consumption, but I have had a severe cold. If I could proceed, I will do so by rereading the sentence that I stumbled on.

Earlier this year, I joined 82 other Senators in voting for an amendment by Senator GRAMM in support of transferring the 4.3 cents gas tax to the highway trust fund and spending it on our rapidly deteriorating transportation systems.

And then on July 14, I joined with 82 other Senators and expressed in a letter to Senators LOTT and DASCHLE, as well as to the chairman and ranking member of the Finance Committee, Senators ROTH and MOYNIHAN, the view that additional funding for transportation is urgently needed.

We 83 Senators urged that the conferees on the Reconciliation Act retain the Senate's transfer of this gas tax into the highway trust fund so that it could then be used for additional transportation spending in the future rather than being applied toward deficit reduction.

Ultimately, the balanced budget agreement did include the transfer of the 4.3 cents gas tax into the highway trust fund, beginning October 1, 1997. And as a result, the highway account of the highway trust fund will receive additional revenues totaling almost $31 billion over the next 5 fiscal years.

One would think that the budget agreement would have taken this additional revenue into account in setting the allocations of budget authority for the pending 6-year highway bill. Instead, under the reported bill, the cash balances in the highway trust fund will grow massively over the next 6 years.

The Congressional Budget Office tells us that under the committee reported bill the balance in the highway trust fund will be just over $25.7 billion at the end of fiscal year 1998. And according to CBO, that trust fund balance will grow each year thereafter, to an unprecedented level of almost $72 billion by the end of fiscal year 2003. In other words, if we accept the levels of contract authority provided in the reported bill for the next 6 years, we will have accomplished nothing by placing the 4.3 cents gas tax into the highway trust fund other than to build up these huge surpluses which have the effect of masking the Federal deficit.

I have called for increased levels of infrastructure investment for years. And yet, despite my pleas and despite the needs of our States and of our constituents, we in the Congress have allowed much of the Nation's physical infrastructure to fall further and further into disrepair.

As the chart to my left shows, the Federal spending for infrastructure as a percentage of all Federal spending, 1980 through 1996, has significantly declined since 1980. And it was more than 5 percent at that time. And as of 1996, it is less than 3 percent.

So in that year—in that year—Federal spending on highways, mass transit, railways, airports, and water supply and waste water treatment facilities amounted to just over 5 percent of total Federal spending. But as I have already pointed out, our 1996 Federal spending on these same infrastructure programs had dropped to less than 3 percent of total Federal spending—less than 3 percent of the total Federal spending.

Nowhere is there infrastructure investment more inadequate than on our Nation's highways. Our National Highway System carries nearly 80 percent of U.S. interstate commerce and nearly 80 percent of intercity passenger and tourist traffic. The construction of our national interstate system represents perhaps the greatest public works achievement of the modern era. But we have allowed segments of our National Highway System to fall into serious disrepair.

The U.S. Department of Transportation, the DOT, has released its most recent report on the condition of the Nation's highways. Its findings are even more disturbing than earlier reports. The Department of Transportation currently classifies less than half of the mileage on our interstate system as being in good condition. And only 39 percent of our entire National Highway System is rated in good condition. Fully 61 percent of our Nation's highways are rated in either fair or poor condition. Almost one in four of our Nation's bridges is now categorized as either structurally deficient or functionally obsolete.

There are literally over a quarter of a billion miles of pavement in the United States that is in poor or mediocre condition. There are over 185,000 deficient bridges across our country. If we allow the decay of our transportation systems to continue, we will vastly constrict the lifelines of our Nation and undermine our economic prosperity.

According to the Department of Transportation, our investment in our Nation's highways is a full $15 billion short each year of what it would take just to maintain current inadequate conditions. Put another way, we would have to increase our national highway investment by more than $15 billion a year to make the least bit of improvement in the status of our national highway network.

It is also critical to point out that while our highway infrastructure continues to deteriorate, highway use—highway use—is on the rise. Indeed, it is growing at a very rapid pace. The number of vehicle miles traveled has grown by more than one-third in just the last decade.

On the chart to my left we see shown U.S. highway vehicle miles traveled. The source is the Federal Highway Administration, highway statistics, 1983 through 1997.

As I say, the number of vehicle miles traveled has grown by more than one-third. And the chart represented here shows the miles traveled in billions, billions of miles. As a result, we are witnessing new highs in levels of highway congestion, causing delays in the movement of goods and people that costs our national economy more than $40 billion a year in lost productivity. And, Mr. President, it is clear that the requirements we place on our National Highway System are growing, while our investment continues to fall further and further behind.

We are simply digging ourselves into a deeper and deeper hole. It is a proven fact that investments in highways result in significant improvements in productivity and increased profits for business as well as improvements to both our local and our national well-being. According to the Federal Highway Administration, every $1 billion invested in highways creates and sustains over 40,000 full-time jobs. Furthermore, the very same $1 billion investment also results in a $240 million reduction in overall production costs for American manufacturers.

And while we can easily see the economic impact of this disinvestment, we must not lose sight of the fact that deteriorating highways have a direct relationship to safety. Almost 42,000 people died on our Nation's highways in 1996. And that is the equivalent to having a midsized passenger aircraft crash every day killing everyone on board.

Let me say that again: 42,000 people died on our Nation's highways in 1996. That is the equivalent to having a midsized passenger aircraft crash every day killing everyone on board.

Substandard road and bridge designs, outdated safety features, poor pavement quality and other bad road conditions are a factor in 30 percent of all fatal highway accidents according to the Federal Highway Administration. The economic impact of these highway accidents costs our Nation $150 billion a year, and that figure is growing.

Now, Mr. President, I am pleased today to bring before the Senate, together with the very able Senators GRAMM, BAUCUS, and WARNER, an amendment that will increase substantially the highway authorization levels contained in the underlying bill. In doing so, the amendment will authorize the use of the increased revenues that began flowing into the highway trust fund on October 1 of this year. As shown on this chart to my left, the Congressional Budget Office estimates that over the 5-year period 1999 through 2003, increased revenue to the highway account will equal $30.971 billion. This amendment will utilize these additional revenues in full to authorize additional highway spending over the 5-year period 1999–2003.

Our amendment does not change the formulas of the underlying bill. Each State will receive its same formula percentage share of these additional authorizations as it did in the reported bill. For the donor States, the amendment still ensures they will receive a minimum of 90 percent return on their percentage contribution to the highway trust fund. Moreover, our amendment, like the committee-reported bill, utilizes 10 percent of the total available resources for discretionary purposes. Increased discretionary amounts of contract authority will therefore be available for the multi-State trade corridors initiative, as well as the 13–State Appalachian Development Highway System.

Adoption of this amendment will not change the scoring of the deficit by one dime. It has been a routine event in this Senate for us to adopt authorization bills that authorize spending levels that far exceed available appropriations. Within the education area, we have funding authorizations on the books that exceed actual appropriations by billions of dollars. The same is true in the area of health research, environmental programs, agricultural programs and the like. The actual obligation ceiling that will pertain to these highway programs will be set annually by the Appropriations Committees as has been the case for the past 6 years under ISTEA and for many of the highway authorization bills before that.

The real question at this time is whether we will allow the 4.3-cents-per-gallon gasoline tax that is now going into the highway trust fund to be authorized for use in the 6-year highway bill or not. Eighty-three Senators signed a letter this past July stating their support of the use of these funds for the purposes for which the tax is being collected; namely, for the construction and maintenance of our national system of highways and bridges.

Much has been made by the opponents of this amendment about the possibility that the increased highway spending authorized by the amendment will cause drastic cuts over the next 5 years in other discretionary spending.

Mr. President, I believe that this argument is unfounded. Enactment into law of the Byrd-Gramm-Baucus-Warner amendment does not cause any cut in any Federal program. Let me repeat again that the bill before us is an authorization bill. It is not an appropriations bill. Therefore, the Appropriations Committees in each of the next 5 years will have to determine what level of highway spending they can afford versus all of the other programs under the committee's jurisdiction. Each

year's transportation bill for fiscal years 1999 through 2003 will contain an obligation limit for total highway spending. That limitation will be set each year in light of the circumstances being faced by the Appropriations Committees in that particular year. The allocation of outlays to the Transportation Subcommittee hopefully will be sufficient to fully fund the entire contract authority provided in this amendment for each of the next 5 years. But, the Senate and House and the President will have the final say as to what is provided for highway spending and for all other areas of the discretionary portion of the budget. Put another way, if we do not adopt this amendment, we may have precluded for the next 5 years any additional highway spending.

Regarding the question of outlay caps on discretionary spending, I fully support and will strongly urge the Budget Committee chairman and the Senate to include in the budget resolution for fiscal year 1999 the necessary provisions to increase discretionary caps for the following 5 years if the economy continues to perform at a positive rate. As Senators are aware, since the adoption of the balanced budget agreement earlier this year, the projections of revenues have dramatically increased and the projections for spending have been dramatically cut. The result is a far better forecast than was thought to be the case when we voted for the balanced budget agreement this past spring.

As the chart to my left shows, a comparison of the budget agreement and OMB's Mid-Session Review now projects revenues to be a total of $129.8 billion greater over the 5-year period 1998 through 2002 than was projected in the balanced budget agreement —$129.8 billion greater in revenues than was projected at the time of the balanced budget agreement. For outlays, the forecast is also much brighter than it was a few short months ago. Compared to the balanced budget agreement, OMB now projects in its Mid-Session Review that total spending over the period 1998 to 2002 will be $71.6 billion less than was projected in that agreement.

The pending Byrd-Gramm-Baucus-Warner amendment takes note of the new projections in the following way. The amendment provides that if—if—savings in budgetary outlays for fiscal years 1998 through 2002 are still projected to exist in connection with the fiscal year 1999 budget resolution, and if that budget resolution calls for using any of the projected spending savings, an allocation of additional discretionary outlays for highways should be made sufficient to cover the costs of the pending amendment.

So what we are saying in our amendment is this: If any of the $71.6 billion in spending savings is to be used in the fiscal year 1999 budget resolution, $21.6 billion should go toward increasing discretionary caps in order to cover the outlays that will result from the increased authorizations of contract authority for highways contained in the pending amendment.

I am for increasing discretionary outlays sufficient to cover the costs of the additional highway construction that will occur under the pending amendment if the economy continues to perform favorably as projected. But, we are not here today to debate the budget resolution. The time for that debate is next spring when the budget resolution for 1999 is before the Senate. We are here today to decide whether to authorize additional highway levels for the next 5 years or whether to let the 4.3-cents gas tax be used instead as a bookkeeping mechanism to build up huge surpluses to mask the Federal deficit. I urge all Senators to vote to waive points of order on this amendment so as to allow it to be voted on, and I urge all Senators to vote for its adoption. In so doing, Senators will be voting to restore public trust in the highway trust fund, and they will be voting to take the next step toward providing substantially increased highway investments for all States—not just one, not just 10, but all States—over the next 6 years.

Let us take a step forward in restoring confidence in Government policies by using gas tax revenues as we have told the people that they would be used. Taxes collected at the pump are intended to be used to construct and maintain safe and modern highways and also to provide needed transit systems.

It is unconscionable that we should continue to hold back public moneys from our Nation's highways when they are slipping into such deplorable disrepair. Promise keepers we certainly are not when it comes to the highway trust fund. The money is there. It has been specifically collected and designated to be plowed back into highways for the benefit of the taxpayer, and yet we are stubbornly sitting on it. We are stubbornly sitting on that money.

It is wrong. It is deceitful. It is bad public policy. It is deplorable in terms of its detrimental impact on our economy. It is contributing to the death and accident rates on our highways. It ought to be stopped. This amendment gives Senators a way to stop it.

I ask unanimous consent to have printed in the RECORD certain tables, and I shall send the amendment to the desk not for the purpose of it being offered today but only for the purpose of it being printed and available for all Senators to see it.

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

PAVEMENT MILES IN POOR TO FAIR CONDITION [1]

State	Mileage poor & mediocre	Federal aid miles
Alabama	3,628	23,230
Alaska	1,259	3,010
Arizona	1,705	11,869
Arkansas	1,994	19,744
California	14,985	48,165
Colorado	5,571	15,965
Connecticut	1,384	5,579
Delaware	584	1,428
District of Columbia	184	389
Florida	7,858	24,378
Georgia	224	29,777
Hawaii	306	1,321
Idaho	4,719	8,594
Illinois	10,681	33,207
Indiana	5,028	21,586
Iowa	4,545	23,395
Kansas	10,987	22,274
Kentucky	3,380	14,389
Louisiana	4,943	14,503
Maine	1,377	6,138
Maryland	1,704	7,404
Massachusetts	3,028	9,154
Michigan	10,032	30,729
Minnesota	13,252	29,501
Mississippi	6,853	20,257
Missouri	8,191	30,178
Montana	5,336	12,058
Nebraska	6,120	15,086
Nevada	633	5,472
New Hampshire	832	3,291
New Jersey	2,318	9,382
New Mexico	4,715	9,787
New York	7,656	25,268
North Carolina	7,467	20,036
North Dakota	5,226	13,294
Ohio	4,316	27,791
Oklahoma	6,813	25,716
Oregon	5,454	17,535
Pennsylvania	4,864	27,105
Rhode Island	852	1,589
South Carolina	4,598	17,274
South Dakota	6,527	14,559
Tennessee	4,282	16,733
Texas	19,277	73,003
Utah	950	7,520
Vermont	1,869	3,760
Virginia	5,198	20,352
Washington	5,231	18,422
West Virginia	2,223	10,114
Wisconsin	8,806	27,606
Wyoming	3,664	7,329
Total	253,629	886,246

[1] Includes only pavement mileage eligible for federal highway funds.

Sources: The Road Information Program (TRIP). Federal Highway Administration.

TOTAL DEFICIENT BRIDGES

State	Bridges >20′ in inventory	Total deficient bridges
Alabama	15,418	5,201
Alaska	849	212
Arizona	6,147	613
Arkansas	12,530	3,793
California	22,563	6,216
Colorado	7,688	1,688
Connecticut	4,070	1,259
Delaware	775	192
District of Columbia	239	143
Florida	10,823	2,628
Georgia	14,306	4,001
Hawaii	1,070	564
Idaho	4,002	790
Illinois	24,915	6,154
Indiana	17,782	5,112
Iowa	24,844	7,437
Kansas	25,460	7,973
Kentucky	12,961	4,391
Louisiana	13,664	5,178
Maine	2,353	874
Maryland	4,524	1,418
Massachusetts	5,021	2,931
Michigan	10,417	3,561
Minnesota	12,555	2,668
Mississippi	16,725	6,801
Missouri	22,940	10,533
Montana	4,808	1,145
Nebraska	15,584	5,284
Nevada	1,150	214
New Hampshire	2,281	874
New Jersey	6,209	2,855
New Mexico	3,475	615
New York	17,308	10,946
North Carolina	16,085	6,006
North Dakota	4,617	1,436
Ohio	27,795	8,664
Oklahoma	22,710	9,021
Oregon	6,516	1,789
Pennsylvania	22,327	9,771
Rhode Island	734	356
South Carolina	8,999	1,884
South Dakota	6,108	1,750
Tennessee	18,658	5,458
Texas	47,192	11,752
Utah	2,586	714
Vermont	2,653	1,112
Virginia	12,679	3,602

TOTAL DEFICIENT BRIDGES—Continued

State	Bridges >20′ in inventory	Total deficient bridges
Washington	7,025	1,947
West Virginia	6,477	3.023
Wisconsin	13,165	3,348

TOTAL DEFICIENT BRIDGES—Continued

State	Bridges >20′ in inventory	Total deficient bridges
Wyoming	2,889	664
Total	574,671	186,559

FY 1999–2003 TOTAL INTERMODAL SURFACE TRANSPORTATION EFFICIENT ACT II, BYRD/GRAMM AMENDMENT

[Preliminary data—dollars in thousands]

State	S. 1173 FY 1999–2003 total as reported by committee	Percent	Byrd/Gramm amendment [1]	Total	Percent
Alabama	2,211,500	1.9970	556,579	2,768,080	1.9970
Alaska	1,373,201	1.2400	345,600	1,718,802	1.2400
Arizona	1,719,893	1.5531	432,854	2,152,748	1.5531
Arkansas	1,472,869	1.3300	370,684	1,843,553	1.3300
California	10,134,190	9.1512	2,550,537	12,684,727	9.1512
Colorado	1,412,391	1.2754	355,465	1,767,856	1.2754
Connecticut	1,895,552	1.7117	477,038	2,372,590	1.7117
Delaware	520,488	0.4700	130,994	651,481	0.4700
District of Columbia	500,536	0.4520	125,973	626,508	0.4520
Florida	5,099,176	4.6046	1,283,335	6,382,510	4.6046
Georgia	3,882,378	3.5058	977,098	4,859,476	3.5058
Hawaii	861,113	0.5970	166,380	827,492	0.5970
Idaho	908,085	0.8200	228,542	1,136,627	0.8200
Illinois	3,683,946	3.3266	927,157	4,611,103	3.3266
Indiana	2,693,608	2.4323	877,914	3,371,522	2.4323
Iowa	1,461,433	1.3197	367,807	1,829,240	1.3197
Kanasa	1,450,185	1.3095	364,977	1,815,162	1.3095
Kentucky	1,921,071	1.7347	483,486	2,404,557	1.7347
Louisiana	1,967,553	1.7767	495,201	2,462,754	1.7767
Maine	636,102	0.5744	160,097	796,199	0.5744
Maryland	1,668,720	1.5069	419,975	2,088,696	1.5069
Massachusetts	1,968,441	1.7775	495,412	2,463,853	1.7775
Michigan	3,493,538	3.1547	879,236	4,372,775	3.1547
Minnesota	1,655,828	1.4952	416,732	2,072,558	1.4952
Mississippi	1,396,953	1.2614	351,580	1,748,533	1.2614
Missouri	2,635,864	2.3802	663,387	3,299,251	2.3802
Montana	1,173,866	1.0600	295,433	1,469,296	1.0600
Nebraska	929,790	0.8396	234,004	1,163,794	0.8396
Nevada	808,417	0.7300	203,458	1,011,875	0.7300
New Hampshire	575,859	0.5200	144,929	720,788	0.5200
New Jersey	2,668,883	2.1400	671,691	3,340,574	2.4100
New Mexico	1,162,791	1.0500	292,646	1,455,437	1.0500
New York	5,640,544	5.0934	1,419,503	7,060,046	5.0933
North Carolina	3,129,880	2.8263	787,713	3,917,593	2.8263
North Dakota	808,417	0.7300	203,458	1,011,875	0.7300
Ohio	3,812,849	3.4430	959,599	4,772,448	3.4430
Oklahoma	1,745,495	1.5762	439,300	2,184,796	1.5762
Oregon	1,426,177	1.2878	358,934	1,785,111	1.2878
Pennsylvania	4,199,341	3.7920	1,056,906	5,256,247	3.7920
Rhode Island	642,304	0.5800	161,652	803,956	0.5800
South Carolina	1,759,595	1.5889	442,846	2,202,441	1.5889
South Dakota	863,788	0.7800	217,394	1,081,182	0.7800
Tennessee	2,506,281	2.2632	630,768	3,137,049	2.2632
Texas	7,623,695	6.8842	1,918,693	9,542,388	6.8842
Utah	955,428	0.8628	240,460	1,195,888	0.8628
Vermont	520,488	0.4700	130,994	651,481	0.4700
Virginia	2,834,290	2.5594	713,320	3,547,610	2.5594
Washington	2,035,955	1.8385	512,401	2,548,356	1.8385
West Virginia	1,131,708	1.0219	284,833	1,416,541	1.0219
Wisconsin	2,011,684	1.8165	506,291	2,517,975	1.8165
Wyoming	841,639	0.7600	211,820	1,053,459	0.7600
Puerto Rico	508,260	0.4590	127,917	636,176	0.4590
Total	110,742,037	100.0000	27,871,000	138,613,037	100.0000

[1] Source of additional contract authority: CBO.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Virginia.

Mr. WARNER. Madam President, if I might just enter into a colloquy here with our distinguished former Senate leader and now the distinguished ranking member of the Appropriations Committee and reflect a little on the very important work which the Senator has led on this amendment, together with Senator GRAMM, Senator BAUCUS, and joined in by myself.

I think it is important to share with our colleagues what this amendment does not do. It doesn't break the budget. We have reviewed that in the number of sessions that the four of us have had.

I wonder if my colleague would recount some of the things to dispel, if I may say, some rumors that seem to be circulating at the moment.

Mr. BYRD. Madam President, I have read and heard some things that are being said about the amendment that do not conform to the proper rules of exactitude. I don't say it is intentional. I think some of these things have been said, perhaps all, through a misunderstanding. I am willing to see it in that way.

There is a great deal of misinformation that has been spread. I can understand why, to some extent. The amendment has not been available for Senators to read. Now it is available, and Senators and their staffs will be able to read for themselves.

It does not bust the budget. It will not intrude upon other programs. It will not mean that other programs will be cut.

I have read a letter or memo recently which indicated certain other programs—by the way, many of them are funded by my own Appropriations Subcommittee on the Department of the Interior, and I have supported those programs for years and years and intend to continue to support them. I would not vote to cut them. It would not result in the cutting of any programs.

I can think of those two things in particular. As we go along further in the debate, there will be other matters that I hope can be straightened out and the light of truth can be focused on them.

If the Senator thinks of other things being said, I will be happy to respond.

Mr. WARNER. If I might follow along, in drafting this bill we have made it very clear that any additional funds next year would be subject to a budget resolution, but they would flow and be distributed precisely as provided in the committee bill, which I hope will eventually become law.

So there would be a law in place next spring by which those funds as designated in this amendment would flow immediately pursuant to the terms of the committee bill.

Now, the key point, Madam President, is that it would not require the

Senate to have another bill, but alternative measures that I have heard about, Madam President and colleagues, that may be offered in the second degree to the amendment we are now discussing would require a new bill.

Now, that, to me, is very important because we would take an existing law, move the funds through it under a formula, hopefully, that Senators will find equitable and not have to revisit in an election year. Madam President, those of us who have been here a while know—and I certainly defer to the experience and knowledge of the former majority leader of the U.S. Senate—in an election year, the chances of getting through a bill of this nature, allocating funds, is exceedingly difficult. I ask my colleague, does he not agree with that observation?

Mr. BYRD. I agree with the distinguished Senator. He is preeminently correct. We should do it in this bill that is before the Senate now. It should not be a 6-month bill or a 1-year bill. We ought to do it in this year, in this bill. Then we will have notified the highway departments of the 50 States more accurately as to what they can depend upon over the next 5 years insofar as planning is concerned.

Mr. WARNER. The distinguished Senator brings up a key point. I hope each Senator will consult with their respective Governors and highway officials on this matter, because particularly in the Northeast States and the Far West, Madam President, weather will close in. There is a shorter period within which to do the vital construction for surface transportation. And unless there is in place a piece of legislation that gives the certainty of 6 years, then they are put at a severe disadvantage. I think that is key to this bill.

One last thing and I will yield the floor. Another situation that is being discussed, should we say, in the hallways, is a means to stop the amendment we are discussing by repealing altogether the 4.3-cent gas tax. Now, Madam President, if that measure is brought forward, that is a very significant step that I think we should give a great deal of consideration to before anybody takes that initiative.

So, Madam President, I conclude by putting a question to the ranking member of the Appropriations Committee, the former chairman and former majority leader, what would be the consequences, in his judgment, if such a measure as repealing the 4.3-cent tax were to be brought before this body—with the extensive debate that we have and the unlikely nature of it being accepted—but in the event it were?

The PRESIDING OFFICER. Under the previous order, the 30 minutes of the Senator from West Virginia have expired, and under the previous order, the Senator from Montana was to be recognized, followed by the Senator from Virginia. Is there objection?

Mr. BAUCUS. I yield to the Senator from West Virginia such time as he needs.

Mr. WARNER. I ask unanimous consent that the time allocated to the Senator from Virginia be consumed by what we have just covered in this colloquy.

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

Mr. BYRD. Madam President, I would view that happening with some disappointment, if not sadness. I hope that no effort will be made to repeal the gas tax. If that happens, that would mean an increase in the deficit. And if the author of such an amendment happens to think that that would bar the amendment that has been offered by the distinguished Senator and two others of my colleagues, and myself, and has been cosponsored by 37 additional Senators—if the author of such an amendment thinks for a moment that that would bar the carrying into the effect of the amendment we have been discussing, that Senator would be sadly mistaken because there are moneys in the trust fund sufficient to carry out the purpose of the amendment that I am offering, or will be offering at the appropriate time, which I have sent to the desk for printing. So, No. 1, it would increase the deficit. No. 2, it would have no effect on the amendment that is being offered by the other Senators and I.

Mr. WARNER. I thank my distinguished colleague.

Mr. BYRD. That would enable the funds in the trust fund to carry out their purposes.

Mr. WARNER. We clearly looked at our amendment to make certain it would be operative irrespective of the Senate and, indeed, congressional action on such a proposal as to repeal the 4.3-cent gas tax.

So, again, Mr. President, I join my colleagues, Senator BYRD, Senator GRAMM, and Senator BAUCUS, to increase the authorization levels in ISTEA II using funds generated by the 4.3 cents per gallon gas tax.

Along with the support of many of my colleagues, we have waged strong efforts this year for higher funding levels for our nation's surface transportation programs.

I initiated that effort and my amendments to spend additional revenues from the highway trust fund earlier this year failed by 1 vote.

Later, during the debate on the conference on the budget resolution, 85 Senators urged—by letter—the conferees to raise the allocation to the highway program so that a portion of the 4.3 cents Federal gas tax could be spent. That effort received no response.

Once again, with the amendment we offer today, we have another opportunity to ensure that additional funding is made available to modernize and expand our nations surface transportation system.

I continue to believe that investments in our transportation system—highways, rail and transit—are a wise and essential investment for the American taxpayer.

Almost every economic effort by the U.S. private sector is met by competition worldwide. Mr. President, for every dollar invested in transportation, there is an economic return of $2.60. Transportation dollars are, in military terms, a strong force multiplier.

The Department of Transportation also confirms that transportation spending is important for American workers. For every $1 billion spent on transportation, there are 50,000 new jobs.

Only with such forces can we survive in this one market world. So, Mr. President, I urge my colleagues to carefully consider the amendment we offer today.

The Byrd-Gramm, Warner-Baucus, amendment is the most realistic chance for us to provide needed funds for transportation based on actions by this Congress in future budget resolutions.

I have joined this amendment because it ensures that the underlying formula, for distribution of funds, of the Committee bill remains intact.

For donor states, this is critically important because every state will continue to receive 90 percent of the funds distributed based on each state's contributions to the highway trust fund.

Ninety percent of the additional funds, provided under this amendment, will likewise be apportioned to each state. Apportioned in the same manner as the formula provides under the committee bill.

Simply stated, this means that no state's percentage share of the program will change with the additional funds provided in the Byrd-Gramm amendment.

Ensuring that every state gets a fair return of 90 percent of the funds sent to the states under the formula is a fundamental principle of ISTEA II.

It is a principle that I will not abandon.

I am satisfied that this amendment is compatible with the formula revisions established in the committee bill.

For this reason, I am pleased to join my colleagues in support of this amendment.

My colleague from New Mexico, Senator DOMENICI, may offer a different approach that makes it very difficult for more funds to be directed to our nation's highways.

The amendment which may be offered by Senators DOMENICI and CHAFEE will provide an expedited process to pass another bill to allow for more transportation spending following action on next year's budget resolution.

That expedited process, however, requires the Senate to pass a new bill. No additional funds that may be provided in a future budget resolution can be released unless we enact a new bill.

Mr. President, the benefits of the Byrd amendment ensures that our states will not have to wait again for

the Congress to act. If any additional funds are provided in a budget resolution, they will go out through the normal process in an appropriations bill and then be allocated by the provisions, then in law hopefully, in this committee bill.

As a result, America's transportation system will benefit. Americans will not be left stalled in gridlock waiting for the Congress to pass another bill in an election year.

Mr. CHAFEE. Madam President, I wonder if the distinguished senior Senator from West Virginia would yield for a couple of questions.

Mr. BYRD. I will be happy to. I may have to ask my friends who are on the committee and are far more expert than I on the subject matter to answer, or to help answer.

Mr. CHAFEE. First, I say to the Senator that I am very pleased that the amendment has now been submitted. It is submitted for printing—I guess not formally submitted. Anyway, this is the amendment that we are going to act upon, as I understand it.

Mr. BYRD. Yes.

Mr. CHAFEE. I thank the Senator for that because, so far, we have not been sure what we were dealing with. But now we know.

I say this to the Senator. I ask the Senator, I listened to the statements on the floor here from the Senator from Texas and others, and there has been a lot of talk about truth in taxes and how wicked it was that this 4.3 cents has not gone for highways, and that it was deceptive to the American motoring public that when this tax was levied, it was levied on the basis that it would be used for bridges, highways, and so forth. Yet, I ask the Senator, was it not true when that tax was enacted, the 4.3-cent additional gasoline tax, in 1993, it was crystal clear to everybody that that was a deficit reduction; am I correct in that?

Mr. BYRD. Let's go back to 1990 just a bit. The distinguished Senator has specificated the 4.3 cents. Let's go back to 1956, when I was in the Congress. We passed the interstate highway bill during the Eisenhower administration and I voted for it. We passed legislation providing for a highway trust fund and for taxes on fuels that would be deposited into that highway trust fund. And it was clearly understood by the American public then that that money was going to come back to the public in meeting their highway and other transportation needs. So that thought was thoroughly ingrained into the minds and hearts and pocketbooks of the American people more than 40 years ago.

Now, we come up to 1990, 34 years subsequent thereto, and we go to the meeting that was held over at Andrews Air Force base. I was part of that meeting. We passed the legislation as part of a package. President Bush entered into that agreement. I believe that former Speaker Foley was there and was part of it. Several us were there. A part of that package provided that 2.5 cents of the fuels taxes be for deficit reduction, temporarily, and that we would put it into a trust fund. That was in 1990. It was to go back into the trust fund in 1995.

Tomorrow, I am going to lay a clearer outline in the RECORD. But I know that our friends—and they are our friends; I consider them friends—are going to argue that the American people did not understand this money to be used for transportation needs, that the American people, all along, have known otherwise. But that is not the case. I go back to 1956, and there are people who were infants at that time—I should even say babies, some who hadn't been born yet who, for the next 34 or 36 years after that period were paying taxes on gasoline at the pump and who believe clearly and had good reason to believe because that is what they were told and that was a fact, that those gas taxes were going to be returned to the States by way of transportation infrastructure. So that's what the American people have been told. We know now, and it has been made clear in a recent study titled, ''What Americans Think About Federal Highway Investment Issues.'' This is presented by the Transportation Construction Coalition Commission' Opinion and Survey.

It is not surprising then that fully 75 percent of Americans say that the United States should use the gas tax exclusively to pay for road and bridge improvements and not on nontransportation programs. Fully 71 percent of Americans want the $6 billion in gas tax revenues, now spent on nontransportation programs, shifted to highways and bridge safety improvements. Indeed, 69 percent of the majority say the U.S. Government should place an even higher priority on highway and bridge improvements of any type than it does now.

So I thank the distinguished Senator for asking the question. I say, yes, there was a brief interlude in those years between 1956 and 1997 when some of the gas taxes were to be used on reduction of the deficits. But that is not the case now, and it was not the case for 34 years prior to the year 1990.

Mr. CHAFEE. Well, Madam President, the point I am making here is that, in 1993—and we were all here at the time—the President of the United States came forward with a deficit reduction program. In that deficit reduction program—this was in 1993—there was a 4.3-cent added gasoline tax imposed. It was crystal clear to everybody who paid any bit of attention to it that that was for deficit reduction. That went into the general fund. It wasn't for gas, it wasn't for highways or bridges, it was for deficit reduction. I voted against it. Every single Republican voted against it, but that is neither here nor there. The fact is that it passed. In those days, there were a majority of Democratic Senators in this body, and those 1993 moneys were clearly for deficit reduction. So the reason I am stressing this is because we have heard some powerful discussion here on the floor about truth in taxes and how unfair it is to the American public that when our wives go and pump the gas into the car, they believe that every tax they pay on that is going into roads and bridges. That may be what they think, but that isn't what the facts are. In 1993, it was crystal clear. There was all kinds of debate here. I am not saying that was wrong. I voted against the entire package but, as I said, that is neither here nor there. It is clear that the money for gasoline taxes was to go for deficit reduction.

Mr. BAUCUS. Will the Senator yield on that point?

Mr. CHAFEE. I don't even have the floor. I am here by sufferance.

The PRESIDING OFFICER. Under the previous order, the Senator from Montana is entitled to the floor at this point.

Mr. BAUCUS. How much time do I have left?

The PRESIDING OFFICER. The Senator has 20 minutes.

Mr. CHAFEE. I will give you all of my time that I don't have.

Mr. BAUCUS. I say to the Senator, back in 1993, it was a very difficult time. The President and the Democratic majority of the Congress were trying to figure out a way to get us on the path toward deficit reduction.

I might say to my good friend from Rhode Island that I think it worked. That package dramatically set us on a glidepath which has enabled us to begin to reduce our budget deficit. In fact, the budget resolution which was passed this year, which allows us to balance the budget was due in large part to that 1993 package.

Having said that, I can remember when I cast that vote. At first, some were proposing a higher tax than 4.3-cents per gallon. I think it was up to a nine cents or so. I argued that I opposed using a gasoline tax for deficit reduction. And because of these arguments, the final number was 4.3 cents. So while I didn't like the idea of a gas tax for deficit reduction, I supported it for the greater good of getting the deficit reduced. And again, that package led get down the road to deficit reduction. But I knew at that time, that once the deficit was reduced, we would be working get this money back to the trust fund for transportation uses.

Indeed, that is what this Congress has done. We have voted to transfer the 4.3 from deficit reduction to the trust fund. That vote passed by a very large margin with a majority of Republicans voted for it.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I am not going to argue against the action that was taken at that time. I think the Senator may well be right, that those actions started a glidepath toward significantly reducing the deficit. All I am saying here is that nobody was under any illusions at the time. I am just trying to rebut the statements being made

here that what we need is truth in taxation, truth in gasoline taxation, and that this is a great deception to the American people. There was no deception. It was absolutely clear in 1993 when those votes were taken—I am not arguing with people who voted for or against it, but nobody in this Chamber was under any illusion that that money was going to build roads or bridges. It was going to go to deficit reduction.

Mr. BAUCUS. Madam President, I would like to ask the Senator, if he is going to speak, not to speak in my time because I would like to finish my statement, and I see it slowly slipping away.

Mr. CHAFEE. I think we better let the Senator get on with his statement. I have no time.

Is the Senator the last speaker?

Mr. BAUCUS. I have no idea.

Mr. CHAFEE. Go to it.

Mr. BAUCUS. I appreciate the good points made by my friend from Rhode Island, but they are really sort of obfuscation. They really don't get to the central point, the central point being should we or should we not pass the Byrd-Gramm-Baucus-Warner amendment which will increase the contract authority or authorization of transportation programs.

There have been a lot of statements from my colleagues about this amendment already. So I will be very brief. The most important point is one the Senator from West Virginia has so correctly made. We have tremendous transportation infrastructure needs, and that they are not being met. Indeed, the Department of Transportation has concluded under the current highway program we need about $15 billion a year in additional spending to meet our highway needs.

And these investments help us compete globally. It is this competition that has helped us reach the economic growth we have today. But we have to invest more in the engine of the economy, our transportation network. Other nation's are investing more in infrastructure in order to catch up to us. If you look at what other countries spend on infrastructure, Japan is four times as a percentage of GDP and Europe twice as much as we do. Just look around the D.C. area. Anybody who drives around here, with all the pot holes and congestion, knows how much we need to improve the highways in this country.

So how do we meet these transportation needs? We begin by increasing the authorizations for transportation spending. We have to do that with the Byrd-Gramm amendment because we are faced with a budget resolution which has limited the amount of money that the Environment and Public Works Committee can spend. And these limits are too low.

So the amendment Senator BYRD is offering is a very creative way to meet the needs of our highway system. It is very simple. It says that if the savings, or a portion of the savings projected in OMB's midsession review are realized and if Congress decides to spend them, then transportation programs should be fully funded. Let me emphasize the key words here. If there are additional savings from the economy and if Congress decides to spend them, then transportation should be fully funded. So nothing is mandated. There is no automatic increased spending. All of that will be decided by Congress next year and in future years. We are only saying that we should authorize these additional funds so that if additional spending is available, the authorization process is complete. We do not mandate anything. We are not mandating the Budget Committee to take action. We are not mandating the Appropriations Committee to spend any additional money. We are just saying they should spend the additional savings if that savings is available.

Now, the total savings available, if OMB's midsession review is accurate, will be about $200 billion. That is to say that we in the Congress will have $200 billion more than we thought we had when we passed the last budget resolution. That is, the economy has been doing so well that there will be about $71 billion less in spending—that is less in unemployment compensation insurance, for example—and about $130 billion in additional revenues because the economy is doing so well. This is over a 5-year period. It is these savings that we are targeting in this amendment.

Let me also say what this amendment does not do. Some Senators have said, and I think it is true that it is based on incorrect information—it is not their fault; the amendment has not been available for them to read. Some Senators said, well, this amendment will cut other programs. It is going to cut Head Start. It is going to cut education programs.

Let me be clear. This amendment in no way cuts funding for any program. Let me repeat that. The effect of this amendment is not to cut any program. That is because we are only authorizing additional spending with the anticipation that future economic savings will be available to fund these authorizations. If we do not do this, if we are locked into the lower numbers in the underlying bill, we will not be able to increase these numbers during the six year authorization. Not unless the Environment and Public Works Committee writes a new bill to do so. We do not want to have to write a new highway bill every year. That does not make sense. But the important point is that increasing the contract authority will not cut the spending for other programs.

And this amendment does not bust the budget. Again, that is because it only increases the contract authority for transportation programs.

Another point. If this amendment does not pass, the balances in the highway trust fund will be $71 billion by the year 2003. That is not right. Congress would continue to use this money to mask the true budget deficit. It is phony business. It is smoke and mirrors to let that happen. It just is not right to let these balances accumulate to such a large degree to mask the true budget deficit. That is wrong. And again that would happen if this amendment does not pass. It just happens automatically if it doesn't pass.

I might also add, Madam President, that I hear some Senators who are unhappy with the formula in the underlying bill. They have asked for more money for their States. I have heard from many States. It is a rare State that doesn't make that plea.

There is only one way to help States get more money and that is to vote for the Byrd amendment. Every State will receive more contract authority. If we do not have this extra contract authority, there is no way we can help States get more money. So if you need more money and if you feel you are not being dealt with fairly, this amendment will help bring that result. We will not be able to help any States or any programs without more money.

Madam President, I have more points I want to make, but I think it is probably more appropriate to bring those points up when the amendment is actually before us. But I just wanted to summarize by saying that I ask Senators to read the amendment now that it is available and they will see it does not cause all these problems that some fear it will cause. And on the contrary, they will see that it does not bust the budget and will not cause a funding cut to other programs.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Madam President, I want to call to the attention of my colleagues, both here on the floor and elsewhere, that there will be a Domenici-Chafee amendment which will provide a simple, fast-track method to increase highway spending without requiring an entire new ISTEA bill. So let's put to rest the suggestion that all kinds of complications are going to have to be gone through in order to increase highway spending under the bill that is before us, plus the amendment that Senator DOMENICI and I will submit.

So, therefore, you say, what's the difference? What's the difference between the two bills? Domenici-Chafee provides a fast-track method to provide additional funding and the so-called Byrd bill, Byrd-Baucus-Warner-Gramm bill says there will be increased funding for highway spending. But, let me just tell you the difference, Madam President. What the Byrd bill says, it says, now, what the contract authority will be, and since that is to be apportioned in just the present proportions that exist amongst the States, that applies a chart immediately that will go out, telling each State what it will get for each successive year.

There is a hitch there, though. That's a promise, it appears. But the sponsors

are stressing that it is not a promise, that the appropriators do not have to provide that amount of money. Here is the problem under that approach. I just look here on page 2, ''Authorization Of Contract Authority: There shall be available from the Highway Trust Fund . . . to carry out this subsection [$5.x billion] for fiscal year 1999,'' $5.471 billion the next year, on and on it goes until it gets up to $5.781 billion.

That is contract authority. And, absent something occurring, that is what the States will get. But the question is, is that what the appropriations are going to be? Here is the hitch. Every State department of transportation will look, as I say, at these amounts, everybody can figure out what their percentage is now and, since the promise is they are going to get the same percentage, we will figure let's see, what does Rhode Island get out of this? Let's see, in fiscal year 2001 things look pretty good. You just take $5.573 billion, which is on top of the amounts we have already, the $21 billion, you just add that in and figure this is what we are going to get in Rhode Island. But Rhode Island is not—or Maine, or Montana or West Virginia—is not necessarily going to get these amounts which appear to be promises because they are not promises because the appropriators have to act.

So, it seems to me the proponents of the bill are riding two horses here. One, they are saying to every State, you are going to get 25 percent more, isn't that wonderful? At the same time they are saying, oh, there are no commitments. Nothing is done. We are not breaking the budget. We are just going to leave it to the appropriators. Other programs can get what they want.

The problem, it seems to me, is once you get these sums out there in contract authority, as is in the Byrd bill, that every department of transportation, every Governor will figure that is what is coming and there will be tremendous pressure on this body to come through on the promise, seeming promise. They will stress, rightfully, it is not a promise. But who knows what the requirements are going to be for the budget, on the budget in the year 2001? Or 2002? Or 2003? It may well be we want to spend more on education. We may want to spend more on health care. It may be we want to cut taxes. But here this is locking us in.

I know they will deny it is locking us in. Why, contract authority, that is just there, you can change it. But I will guarantee by this time tomorrow every State will have a chart showing what they are going to get for 1999, 2000, 2001, 2002, and 2003. And it will appear to be a promise. That, to me, I believe, is a definite flaw in this measure.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. If the Senator will yield, if I understand the Senator, he is saying under the Byrd-Gramm-Baucus-Warner amendment it is true that it is up to the discretion of the Budget Committee and appropriations committees to make these decisions, but that they will be under such pressure that they will not be able to decide responsibly what is right for the country? That is what I understand the Senator to be saying.

Mr. CHAFEE. What I am saying is these amounts are listed here as contract authority. I mean that is the word. And that means that every single State will anticipate—they can work these percentages out. You don't have to be a Phi Beta Kappa to do that. And they will anticipate what they are getting.

Indeed, proponents are already saying every State is going to get 25 percent more. They don't know they are going to get 25 percent more. That is what I mean. They are riding one horse saying you are going to get 25 percent more because there it is, ''in contract authority.'' At the same time they are saying we leave it completely up to the appropriators, it is not necessarily 25 percent.

Which is it?

Mr. BAUCUS. I think it is very clear. The point of this is we transferred 4.3 cents to the highway trust fund. Those are dollars that Americans expect to be used for highways. And I think the Senator is correct in saying there is a very strong presumption that that contract authority will be spent someday. The Budget Committee and the Appropriations Committee along with the rest of Congress will decide if the contract authority will be spent. But that is only if economic savings are realized. But the beauty of the amendment is if for some reason it does not make sense next year to increase transportation spending, they still have that discretion. That is the beauty of it.

So, in answer to the Senator, it is very clear. It could not be more clear. Yes, there is a very strong presumption because the amendment says it should be spent. But it does not say it must be spent. It does not mandate that. But I personally feel it should be spent. The cosponsors of this amendment very strongly believe that those dollars should be spent.

But, still, we can't totally predict the future. I can't. I don't think anybody in this body can. So next year if for some reason the Budget Committee and Congress decides it wants to make some other decision, it can. And the Senator knows, under the terms of this amendment, the Budget Committee can. But the Senator also is correct in saying there is a strong presumption under this amendment that this money should be spent on highways if the savings are realized. Again, the amendment provides ''if the savings are realized.''

I have one question for the Senator. When are we going to see the amendment of the Senator?

Mr. CHAFEE. It will be available tomorrow.

Mr. BAUCUS. Tomorrow. Good.

Mr. CHAFEE. I might say I think the Senator is on weak ground to suggest I am slow. If I understand, the first discussion of the Byrd amendment was on October 9th. I know there is a gestation period here, but this has been unusually long. Whereas we have not been discussing our amendment publicly and talking about it, it is going to come. I think it was first going to come on the 10th; then it was going to come on Monday the 20th. Then we looked forward with bated breath for it on the 21st. Indeed, it has not even been submitted yet.

You could perfectly well revise this. I don't know why you haven't filed it.

Mr. BYRD. Madam President, will the Senator yield?

Mr. CHAFEE. Sure.

Mr. BYRD. Madam President, I call the attention of the Senator to a letter dated October 9th, signed by Mr. CHAFEE and by Mr. DOMENICI, to colleagues, in which the two Senators promise that there will be an amendment forthcoming. They even enclose an one-page summary of their amendment. And they say, ''We hope that we can have your support for this important matter.'' So on October 9th they had an amendment. That was before the recess occurred. They had an amendment, apparently, then, because they sent this to all their colleagues. I don't believe I received one. Maybe I did. I'm not sure.

In any event, they had the amendment then. Why have they waited until this date? They had it on October 9th. Today is October the 22nd, and we still don't see the amendment. But that is not so important.

May I say to the distinguished Senator from Rhode Island that the States know that they may not get the full authorized level. They never did under ISTEA, under ISTEA I, in previous years. They didn't get the authorized level.

May I also add I will be glad to join with the Senator and with Mr. DOMENICI in raising the caps. I will be happy to do that at the proper time, and I will urge that that be done. But there is time for that, yes.

Yes, the pressure is going to increase. No doubt about it. The pressures will increase because the people are going to want to get what they have been promised. Say what you like, but on May 22, 83 Senators voted that 4.3 cents should be returned to the trust fund and be spent on highway needs. That was 5 months ago. Only half of the task has been done, the transfer of the tax, but no spending of that revenue is currently authorized. So, I think when the people out in the various States, the hills and hollows, the seashores, read about this amendment they are, indeed, going to increase pressure to have us live up to the commitment that we know has been made and which was being urged by 83 Senators on May 22nd.

I thank my good-natured friend, Mr. CHAFEE. He is always very good natured, humorous, pleasing to get along

with. I enjoy serving with him. I thank him for yielding.

If he will yield just one moment further, I ask unanimous consent, Madam President, that the amendment that I am offering today on behalf of myself, Mr. GRAMM, Mr. BAUCUS, Mr. WARNER and 36 other Senators, be printed in the RECORD so that all Senators may read it tomorrow.

(The text of the amendment No. 1397 is printed in today's RECORD under ''Amendments Submitted.'')

Mr. BYRD. And, while I am on the floor on my feet, I shall read the names of the other cosponsors. And we are expecting additional cosponsors, as I indicated earlier today, with several Senators saying they won't cosponsor but they would vote with us.

The following Senators have agreed up to this point to cosponsor the amendment: Senators AKAKA, ASHCROFT, BAUCUS, BREAUX, BRYAN, BUMPERS, BURNS, BYRD, CLELAND, COATS, COVERDELL, DEWINE, DORGAN, FAIRCLOTH, FEINSTEIN, FORD, GRAMM of Texas, GRAMS of Minnesota, HARKIN, HOLLINGS, HUTCHINSON of Arkansas, INHOFE, INOUYE, JOHNSON, KENNEDY, KERREY of Nebraska, KERRY of Massachusetts, LANDRIEU, LEAHY, LIEBERMAN, MCCAIN, MCCONNELL, MIKULSKI, REID of Nevada, ROCKEFELLER, SANTORUM, SESSIONS, SHELBY, SPECTER and WARNER.

I thank the Senator for allowing me the privilege of reading these names into the RECORD.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Rhode Island.

Mr. CHAFEE. 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.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate now resume the highway bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A bill (S. 1173) to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Chafee/Warner amendment No. 1312, to provide for a continuing designation of a metropolitan planning organization.

Chafee/Warner amendment No. 1313 (to language proposed to be stricken by the committee amendment, as modified), of a perfecting nature.

Chafee/Warner amendment No. 1314 (to amendment No. 1313), of a perfecting nature.

Motion to recommit the bill to the Committee on Environment and Public Works, with instructions.

Lott amendment No. 1317 (to instructions of the motion to recommit), to authorize funds for construction of highways, for highway safety programs, and for mass transit programs.

Lott amendment No. 1318 (to amendment No. 1317), to strike the limitation on obligations for administrative expenses.

CLOTURE MOTION

Mr. CHAFEE. Mr. President, I now send a cloture motion to the desk to the pending committee amendment.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill 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 a close debate on the modified committee amendment to S. 1173, the Intermodal Surface Transportation Efficiency Act:

Trent Lott, John H. Chafee, Pat Roberts, Slade Gorton, Jon Kyl, Dan Coats, Ted Stevens, Mitch McConnell.

Mike DeWine, John W. Warner, Larry E. Craig, Don Nickles, Jesse Helms, Chuck Hagel, Dirk Kempthorne, Lauch Faircloth.

Mr. CHAFEE. Mr. President, for the information of all Senators, the cloture vote will occur on Friday of this week if cloture is not invoked earlier on Thursday. All Senators will be notified as to the exact time of this cloture vote.

Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

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

MORNING BUSINESS

Mr. CHAFEE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

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

ONE-CALL NOTIFICATION

Mr. FORD. Mr. President, I would like to clarify the intent of a portion of the Commerce Committee's ISTEA amendment that deals with State one-call (''call-before-you-dig'') programs. I'm interested in this language as it relates to the treatment of railroads. I understand that the provisions proposed to be added to the ISTEA legislation are the same as the provisions of S. 1115, the ''Comprehensive One-Call Notification Act of 1997.''

The Leader, together with the Minority Leader, introduced this bill as S. 1115 in July, and the Committee on Commerce, Science and Transportation already held a hearing on this bill in September.

Mr. LOTT. Senator FORD is correct. Thank you for focusing attention on this important safety aspect of the amendment. Our country increasingly depends on a reliable, safe, dependable underground infrastructure of pipelines and communications networks. To protect these facilities against damage from excavation activities, States have developed one-call programs. These programs notify facility owners of imminent excavation in the vicinity of those facilities. The owners can then mark the location of those facilities, protecting both the facilities and the excavator. My legislative goal is to augment and improve the effectiveness of these State programs.

Mr. FORD. Does the legislation impose mandates on States and require them to change their programs?

Mr. LOTT. The answer is an emphatic ''no.'' The legislation does not impose any federal mandate on the States to modify their existing one-call programs. The bill does not dictate the content of these programs from Washington. Period. The legislation does, however, encourage States to improve their programs, and it makes funding available for that purpose.

To be eligible for the funding, the State programs must meet certain minimum standards, but even those standards are performance-based, not prescriptive.

Frankly, legislation that contained a federal mandate for a one-call system was tried a few years ago, and it failed. There were endless fights over how the bill should be written precisely due to the fact that there are indeed 50 differing perceptions. Valid perceptions and experiences which match up to the many programs already in existence. This year, this mistake was avoided with this legislative approach—no mandates. And I am pleased to say that is why it enjoys broad support on both sides of the aisle.

In fact, at the conclusion of my remarks, I will ask unanimous consent to have printed in the RECORD a letter from Secretary of Transportation Slater, dated October 16, recognizing the importance of including one-call legislation as part of the reauthorization of the ISTEA legislation.

Mr. FORD. Among the minimum standards required for a program to be eligible for federal assistance is the requirement for ''appropriate participation by all excavators.'' However, the bill does not define these terms. Isn't that going to lead to a variety of inconsistent outcomes?

Mr. LOTT. What I have found is that there is not one single one-call definition that applies equally to all 50 States. The various State laws on the books have certain elements in common, but there are just as many differences, and those differences often are appropriate. Montana will not need the same law as Mississippi. For that reason, the bill allows States flexibility by not mandating a single definition written in Washington.

Mr. FORD. While there is not a definition of ''excavation'' in the bill, some definitions in other bills on this subject would have covered routine railroad maintenance. I am concerned that railroads might be required to participate in a program that places an undue burden on activities that pose little threats to underground facilities. How would the bill before us affect this matter?

Mr. LOTT. Again, I say to Senator FORD, the bill does not require States to change their existing programs. So it would not change the way railroads are treated under any existing State laws. I understand about 30 States laws now cover at least some railroad activities while about 10 specifically exempt railroads from coverage. The bill will not change the exemption in these States. Will not. The fact that 30 States have chosen to include railroads within their programs suggests that at least in these instances, State legislatures determined that some potential threat to underground facilities from railroad activity does exist. Again, this bill in and of itself will not require a change in how the railroad activity is treated. Will not.

However, I want to reiterate that what is appropriate for one State may not be appropriate for another. To receive Federal assistance under the bill, a State must only demonstrate that its program covers those excavators whose action poses a significant risk to underground facilities.

The State's decisions will not be measured and second-guessed against a national standard.

Mr. FORD. Railroads also raised the issue of whether it is appropriate to require them to participate in one-call systems as ''underground operators'' because railroads own their right-of-ways and know the location of their own facilities within those right-of-ways.

Mr. LOTT. Again, if States do not now require railroads to participate as operators of underground facilities, then there still is no provision in the bill that would change that status. Remember, no mandates. Most State programs do not require participation by persons whose underground facilities lie within their own property like a gas station. The bill in no way discourages States from continuing such common sense exclusions.

Mr. FORD. The railroads also urged Congress to provide for immediate response in the case of derailments and natural disasters. Does the bill address this issue?

Mr. LOTT. Again, this bill neither specifies or directs the details of a State program nor does it override existing State programs. All of the State programs of which I am aware allow for an immediate response in the event of an emergency. And this bill does not change this situation.

Mr. FORD. Finally, the railroad industry expressed concern that the bill could possibly interfere with the right-of-way agreements companies have negotiated between themselves. Can this concern be addressed?

Mr. LOTT. I want to personally assure Senator FORD that this bill does not override private contracts, just as it does not override existing State programs. If expert opinions believe doubt is created than I will offer an amendment to remove this consequence.

Mr. FORD. I thank the Leader for his clarifications regarding this legislation.

Mr. LOTT. Mr. President, I ask unanimous consent that the letter from Secretary Slater be printed in the RECORD.

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

THE SECRETARY OF TRANSPORTATION,
Washington, DC, October 16, 1997.

Hon. TRENT LOTT,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR LOTT: Thank you for your continued support in developing legislation to enhance protection of America's underground utilities.

As you know, safety is the Department of Transportation's highest priority. Prevention of damage to underground facilities, including pipelines and telecommunications cables, is a key departmental safety initiative. That is why we included one-call legislation as part of the Administration's proposal to reauthorize the Intermodal Surface Transportation Efficiency Act (ISTEA).

Your continued leadership on one-call issues is critical to enacting legislation during this Congress. I am pleased that our respective bills share the same fundamental principles: that all underground facility operators must participate in one-call systems and that, with very limited exceptions, all excavators must call before they dig. I look forward to working with you to enact this important legislation.

Please do not hesitate to contact me or Mr. Steven O. Palmer, Assistant Secretary for Governmental Affairs, at 202–366–4573, if you have any questions or concerns.

Sincerely,

RODNEY E. SLATER.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, October 21, 1997, the Federal debt stood at $5,420,383,941,176.62. (Five trillion, four hundred twenty billion, three hundred eighty-three million, nine hundred forty-one thousand, one hundred seventy-six dollars and sixty-two cents)

One year ago, October 21, 1996, the Federal debt stood at $5,227,288,000,000. (Five trillion, two hundred twenty-seven billion, two hundred eighty-eight million)

Five years ago, October 21, 1992, the Federal debt stood at $4,060,086,000,000. (Four trillion, sixty billion, eighty six million)

Ten years ago, October 21, 1987, the Federal debt stood at $2,384,932,000,000. (Two trillion, three hundred eighty-four billion, nine hundred thirty-two million)

Fifteen years ago, October 21, 1982, the Federal debt stood at $1,140,014,000,000 (One trillion, one hundred forty billion, fourteen million) which reflects a debt increase of more than $4 trillion—$4,280,369,941,176.62 (Four trillion, two hundred eighty billion, one hundred sixty-nine million, nine hundred forty-one thousand, one hundred seventy-six dollars and sixty-two cents) during the past 15 years.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING OCTOBER 17TH

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending October 17, the United States imported 7,927,000 barrels of oil each day, 204,000 barrels less than the 8,131,000 imported each day during the same week a year ago.

While this is one of the few weeks that Americans imported less oil than the same week a year ago, Americans still relied on foreign oil for 55.4 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil? By U.S. producers using American workers?

Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 7,927,000 barrels a day.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, 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 appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendments of the Senate to concurrent resolution (H. Con. Res. 8) recognizing the significance of maintaining the health and stability of coral reef ecosystems.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 282. An act to designate the United States Post Office building located at 153

East 110th Street, New York, New York, as the ''Oscar Garcia Rivera Post Building.''

H.R. 681. An act to designate the United States Post Office building located at 313 East Broadway in Glendale, California, as the ''Carlost J. Moorhead Post Office Building.''

H.R. 708. An act to require the Secretary of the Interior to conduct a study concerning grazing use and open space within and adjacent to the Grand Teton National Park, Wyoming, and to extend temporarily certain grazing privileges.

H.R. 1779. An act to make a minor adjustment in the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, Missouri, to exclude a small parcel of land containing improvements.

H.R. 1787. An act to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects of persons with demonstrated expertise in the conservation of Asian elephants.

H.R. 1789. An act to reauthorize the dairy indemnity program.

H.R. 1962. An act to provide for a Chief Financial Officer in the Executive Office of the President.

H.R. 2013. An act to designate the facility of the United States Postal Service located at 551 Kingstown Road in South Kingstown, Rhode Island, as the ''David B. Champagne Post Office Building.''

H.R. 2129. An act to designate the United States Post Office located at 150 North 3rd Street in Steubenville, Ohio, as the ''Douglas Applegate Post Office.''

H.R. 2204. An act to authorize appropriations for fiscal years 1998 and 1999 for the Coast Guard, and for other purposes.

H.R. 2366. An act to transfer to the Secretary of Agriculture the authority to conduct the census of agriculture, and for other purposes.

H.R. 2464. An act to amend the Immigration and Nationality Act to exempt internationally adopted children 10 years of age or younger from the immunization requirement in section 212(a)(1)(A)(ii) of such.

H.R. 2535. An act to amend the Higher Education Act of 1965 to allow the consolidation of student loans under the Federal Family Loan Program and the Direct Loan Program.

H.R. 2564. An act to designate the United States Post Office located at 450 North Centre Street in Pottsville, Pennsylvania, as the ''Peter J. McCloskey Postal Facility.''

H.R. 2610. An act to amend the National Narcotics Leadership Act of 1988 to extend the authorization for the Office of National Drug Control Policy until September 30, 1999, to expand the responsibilities and powers of the Director of the Office of National Drug Control Policy, and for other purposes.

H.J. Res. 97. Joint resolution making further continuing appropriations for the fiscal year 1998, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 151. Concurrent resolution expressing the sense of the Congress that the United States should manage its forests to maximize the reduction of carbon dioxide in the atmosphere among many other objectives, and that the United States should serve as an example and as a world leader in managing its forests in a manner that substantially reduces the amount of carbon dioxide in the atmosphere.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 282. An act to designate the United States Post Office building located at 153 East 110th Street, New York, New York, as the ''Oscar Garcia Rivera Post Office Building''; to the Committee on Governmental Affairs.

H.R. 681. An act to designate the United States Post Office building located at 313 East Broadway in Glendale, California, as the ''Carlost J. Moorhead Post Office Building''; to the Committee on Governmental Affairs.

H.R. 1779. An act to make a minor adjustment in the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, Missouri, to exclude a small parcel of land containing improvements; to the Committee on Energy and Natural Resources.

H.R. 1787. An act to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects of persons with demonstrated expertise in the conservation of Asian elephants; to the Committee on Environment and Public Works.

H.R. 1789. An act to reauthorize the dairy indemnity program; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 1962. An act to provide for a Chief Financial Officer in the Executive Office of the President; to the Committee on Governmental Affairs.

H.R. 2129. An act to designate the United States Post Office located at 150 North 3rd Street in Steubenville, Ohio, as the ''Douglas Applegate Post Office''; to the Committee on Governmental Affairs.

H.R. 2366. An act to transfer to the Secretary of Agriculture the authority to conduct the census of agriculture, and for other purposes; to the Committee on Governmental Affairs.

H.R. 2564. An act to designate the United States Post Office located at 450 North Centre Street in Pottsville, Pennsylvania, as the ''Peter J. McCloskey Postal Facility''; to the Committee on Governmental Affairs.

H.R. 2610. An act to amend the National Narcotics Leadership Act of 1988 to extend the authorization for the Office of National Drug Control Policy until September 30, 1999, to expand the responsibilities and powers of the Director of the Office of National Drug Control Policy, and for other purposes; to the Committee on the Judiciary.

The following measure was read and referred as indicated:

H. Con. Res. 151. Concurrent resolution expressing the sense of the Congress that the United States should manage its forests to maximize the reduction of carbon dioxide in the atmosphere among many other objectives, and that the United States should serve as an example and as a world leader in managing its forests in a manner that substantially reduces the amount of carbon dioxide in the atmosphere; to the Committee on Agriculture, Nutrition, and Forestry.

The Committee on Energy and Natural Resources was discharged from further consideration of the following measure which was referred to the Committee on Environment and Public Works:

S. 1268. A bill to amend the Tennessee Valley Authority Act of 1933 to modify provisions relating to the Board of Directors of the Tennessee Valley Authority, and for other purposes.

Pursuant to the order of the Senate of October 22, 1997, the following measures were considered jointly referred to the Committee on Finance and to the Committee on Governmental Affairs:

S. 613. A bill to provide that Kentucky may not tax compensation paid to a resident of Tennessee for certain services performed at Fort Campbell, Kentucky.

H.R. 1953. An act to clarify State authority to tax compensation paid to certain employees.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

M. John Berry, of Maryland, to be an Assistant Secretary of the Interior.

(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 Mr. JEFFORDS, from the Committee on Labor and Human Resources:

Ela Yazzie-King, of Arizona, to be a Member of the National Council on Disability for a term expiring September 17, 1999. (Reappointment)

Espiridion A. Borrego, of Texas, to be Assistant Secretary of Labor for Veterans' Employment and Training.

Patricia Watkins Lattimore, of the District of Columbia, to be an Assistant Secretary of Labor.

Charles N. Jeffress, of North Carolina, to be an Assistant Secretary of Labor.

Jeanette C. Takamura, of Hawaii, to be Assistant Secretary for Aging, Department of Health and Human Services.

Robert H. Beatty, Jr., of West Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for the remainder of the term expiring August 30, 1998.

David Satcher, of Tennessee, to be an Assistant Secretary of Health and Human Services.

David Satcher, 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 four years.

Susan Robinson King, of the District of Columbia, to be an Assistant Secretary of Labor.

(The above nomination was reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HELMS, from the Committee on Foreign Relations:

Treaty Docs. 104–28 and 105–26 Migratory Bird Protocol With Canada and Migratory Bird Protocol With Mexico (Exec. Rept. 105–5).

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol between the Government of the United States of America and the Government of the United Mexican States Amending the Convention for the Protection of Migratory Birds and Game Mammals, signed at Mexico City on May 5, 1997 (Treaty Doc. 105–26), subject to the understanding of subsection (a), the declaration of subsection (b), and the proviso of subsection (c).

(a) UNDERSTANDING.—The Senate's advice and consent is subject to the following understanding, which shall be included in the

instrument of ratification, and shall be binding on the President:

(1) INDIGENOUS INHABITANTS.—The United States understands that the term ''indigenous inhabitants'' as used in Article I means a permanent resident of a village within a subsistence harvest area, regardless of race. In its implementation of Article I, the United States also understands that where it is appropriate to recognize a need to assist indigenous inhabitants in meeting nutritional and other essential needs, or for the teaching of cultural knowledge to or by their family members, there may be cases where, with the permission of the village council and the appropriate permits, immediate family members of indigenous inhabitants may be invited to participate in the customary spring and summer subsistence harvest.

(b) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol Between the United States and Canada Amending the 1916 Convention for the Protection of Migratory Birds in Canada and the United States, with Related Exchange of Notes, signed at Washington on December 14, 1995 (Treaty Doc. 104–28), subject to the understanding of subsection (a), the declaration of subsection (b), and the proviso of subsection (c).

(a) UNDERSTANDING.—The Senate's advice and consent is subject to the following understanding, which shall be included in the instrument of ratification, and shall be binding on the President:

(1) INDIGENOUS INHABITANTS.—The United States understands that the term ''indigenous inhabitants'' as used in Article II(4)(b) means a permanent resident of a village within a subsistence harvest area, regardless of race. In its implementation of Article II(4)(b), the United States also understands that where it is appropriate to recognize a need to assist indigenous inhabitants in meeting nutritional and other essential needs, or for the teaching of cultural knowledge to or by their family members, there may be cases where, with the permission of the village council and the appropriate permits, immediate family members of indigenous inhabitants may be invited to participate in the customary spring and summer subsistence harvest.

(b) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President.

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

Ex. F, 96–1 U.S.-Mexico Treaty On Maritime Boundaries (Exec. Rept. 105–4).

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), Tha the Senate advise and consent to the ratification of the Treaty on Maritime boundaries between the United States of America and the United Mexican States, signed at Mexico City on May 4, 1978 (Ex. F, 96–1), subject to the declaration of subsection (a), and the proviso of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration, which shall be binding on the President:

91) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. HATCH:

S. 1304. A bill for the relief of Belinda McGregor; to the Committee on the Judiciary.

By Mr. GRAMM (for himself, Mr. LIEBERMAN, Mr. BINGAMAN, and Mr. DOMENICI):

S. 1305. A bill to invest in the future of the United States by doubling the amount authorized for basic scientific, medical, and pre-competitive engineering research; to the Committee on Labor and Human Resources.

By Mr. INHOFE:

S. 1306. A bill to prohibit the conveyance of real property at Long Beach Naval Station, California, to China Ocean Shipping Company; to the Committee on Armed Services.

By Mr. DASCHLE:

S. 1307. A bill to amend the Employee Retirement Income Security act of 1974 with respect to rules governing litigation contesting termination or reduction of retiree health benefits and to extend continuation coverage to retirees and their dependents; to the Committee on Labor and Human Resources.

By Mr. BREAUX (for himself and Mr. KERREY):

S. 1308. A bill to amend the Internal Revenue Code of 1986 to ensure taxpayer confidence in the fairness and independence of the taxpayer problem resolution process by providing a more independently operated Office of the Taxpayer Advocate, and for other purposes; to the Committee on Finance.

By Mr. KERRY (for himself, Mr. BOND, Mr. ROCKEFELLER, Mr. CHAFEE, Mr. KENNEDY, Mr. HOLLINGS, Ms. LANDRIEU, Mr. WELLSTONE, Ms. MOSELEY-BRAUN, Mrs. BOXER, Mr. TORRICELLI, and Mr. JOHNSON):

S. 1309. A bill to provide for the health, education, and welfare of children under 6 years of age; to the Committee on Labor and Human 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. SPECTER:

S. Con. Res. 56. A concurrent resolution authorizing the use of the rotunda of the Capitol for the ceremony honoring Leslie Townes (Bob) Hope by conferring upon him the status of an honorary veteran of the Armed Forces of the United States; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 1304. A bill for the relief of Belinda McGregor; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mr. HATCH. Mr. President, I am today introducing a private relief bill on behalf of Belinda McGregor, the beloved sister of one of my constituents, Rosalinda Burton.

Mistakes are made everyday, Mr. President, and when innocent people suffer severe consequences as a result of these mistakes, something ought to be done to remedy the situation.

In the particular case of Ms. Belinda McGregor, the federal bureaucracy made a mistake—a mistake which cost Ms. McGregor dearly and it is now time to correct this mistake. Unfortunately, the only way to provide relief is through Congressional action.

Belinda McGregor, a citizen of the United Kingdom, filed an application for the 1995 Diversity Visa program. Her husband, a citizen of Ireland, filed a separate application at the same time. Ms. McGregor's application was among those selected to receive a diversity visa. When the handling clerk at the National Visa Center received the application, however, the clerk erroneously replaced Ms. McGregor's name in the computer with that of her husband.

As a result, Ms. McGregor was never informed that she had been selected and never provided the requisite information. The mistake with respect to

Ms. McGregor's husband was caught, but not in time for Ms. McGregor to meet the September, 1995 deadline. Her visa number was given to another applicant.

In short, Ms. McGregor was unfairly denied the 1995 diversity visa that was rightfully hers due to a series of errors by the National Visa Center. As far as I know, these facts are not disputed.

Unfortunately, the Center does not have the legal authority to rectify its own mistake by simply granting Ms. McGregor a visa out of a subsequent year's allotment. Thus, a private relief bill is needed in order to see that Ms. McGregor gets the visa to which she was clearly entitled to in 1995.

Mr. President, I have received a very compelling letter from Rosalinda Burton of Cedar Hills, UT which I am placing in the RECORD. Ms. Burton is Ms. McGregor's sister and she described to me the strong relationship that she and her sister have and the care that her sister provided when Ms. Burton was seriously injured in a 1993 car accident.

I hope that the Senate can move forward on this bill expeditiously. Ms. McGregor was the victim of a simple and admitted bureaucratic snafu. The Senate ought to move swiftly to correct this injustice.

Mr. President, I am also including in the record additional relevant correspondence which documents the background of this case.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

CEDAR HILLS, UT,
September 23, 1997.

Hon. ORRIN HATCH,
U.S. Senate.

DEAR SENATOR HATCH. This is one of the many endless attempts to seek fairness and justification regarding a very unique and still unresolved case pertaining to the future of my beloved sister, Belinda McGregor.

This is a plea on my part for you to please allow me the opportunity to humbly express in this letter, my deepest concern which is also personally shared by Senator Edward Kennedy.

It would be a challenge to explain what once stated as ''the dream come true'' for my sister, Belinda, on to paper, but I hope you will grant me a moment of your time to read this attempt to seek your help, as my Senator.

Towards the end of 1993 I was the victim of a very serious car accident and I could not have coped without the support of my church and the tremendous help of my beloved sister, Belinda, after which she expressed a strong desire to come and live in Utah, to be close to me, her only sister. In 1994, therefore, a dream came true when, after applying for the DV1 Program, which is held yearly, my sister's husband David, was informed by the National Visa Center, that he was selected in the 1995 Diversity Visa Lottery Program. Finally, my sister had a chance to live near her family and friends. Belinda, who is Austrian/British, then working for the ''United Nations Drug Control Programme'' (UNDCP) at the UN Headquarters in Vienna, Austria, was so thrilled to be informed of the good news. Therefore, all the necessary documents were provided to the National Visa Center in New Hampshire.

Her patience was put to the test, as she did not hear from anybody during a lengthy period of time. She contacted the American Embassy in Vienna from time to time, but to no avail. She then tried contacting various offices and people without success and as a last resort made contract with Senator Edward Kennedy's office, who kindly looked into her case. She was so happy that someone took the time to check into ''the ongoings of the National Visa Center'' and you can imagine the surprise when Ms. Patricia First (Senator Kennedy's staff) contacted my sister to let her know the outcome of their investigation (Attachment [1]). I am also attaching a copy of Senator Kennedy's letter to Ms. Mary A. Ryan, Assistant Secretary for Consular Affairs, United States Department of State. (Attachment [2]), which explains very clearly what actually had happened. Mr. McNamara, then Director of the National Visa Center, addressed his reply to Senator Kennedy (Attachment [3]). As my sister always wanted to come live and work near me, and always believed very strongly in fairness, she was convinced that the U.S. Government would then do anything possible to find a resolution to this predicament. By this time it was already April 1997 and being quite a determined lady due to her 3 year struggle, my sister, therefore, got in touch (via e-mail) with the newly appointed Director of the National Visa Center, Ms. Josefina Papendick. She explained the whole situation, sent copies of previous correspondence to Ms. Papendick but was always told (Attachments [4] [5]) that unfortunately there were no more visa numbers available as the deadline for the 1995 Diversity Visa Lottery was 30 September 1995. This was indeed a shock and disappointment that no effort or willingness was shown to rectify the matter, especially as the National Visa Center acknowledged their own mistakes. The McGregor family did everything within their power—submitted all necessary papers in a timely fashion, but due to serious errors made by the National Visa Center, were disqualified and their numbers were given to someone else. She realizes of course that she is only a minority but nevertheless—we all feel that injustice has been done.

This injustice prevented my sister in building her future here with me. For one tiny moment this special gift was placed in her hands, to build her own world, but was quickly taken, due to these errors made. As advised, my sister has since then applied every year for the DV1 Program under her Austrian Nationality.

She always worked in an international environment, her previous employment being with the drug control program of the United Nations and was confident her experience and skills would be invaluable and beneficial to her newly adopted homeland. In preparation for her invitation to immigrate, she sought independence immediately and acquired a secretarial position, which was put on hold for her. Unfortunately and with deep regret she had to abandon the offer when she was informed of the errors that were made.

She has been in contact with the honorable Senator Kennedy ever since and his kind office suggested that I contact you and maybe between you and Senator Kennedy this problem could be looked into and resolved.

The future happiness of my sister is as important as my own, and I hope and pray with all my heart, her tears of sadness will, via your understanding, help and determination, turn those tears to joy. Thank you for listening, dear Senator Hatch.

Yours sincerely,

ROSALINDA BURTON.

PS: Should you need any further information, please do not hesitate to contact Belinda at my address. Thank you.

FOOTNOTES

[1] Ms. Patricia First's (Senator Kennedy's office) e-mail to Belinda McGregor

[2] Senator Edward Kennedy's letter to Mary A. Ryan, Assistant Secretary for Consular Affairs.

[3] Mr. McNamara's reply to Senator Edward Kennedy.

[4] Ms. Josefina Papendick's letter to Belinda McGregor.

[5] Ms. Josefina Papendick's letter to Belinda McGregor.

ATTACHMENT ONE

FEBRUARY 15, 1996.

DEAR MS. MCGREGOR: I have received an answer from the State Department on the specifics of both your and your husband's diversity visa applications. It appears that the Department of State and National Visa Center grossly mishandled your applications. Our office has sent a letter to Mary Ryan, Assistant Secretary of Consular Affairs for the State Department. Ms. Ryan's Section oversees the visa process. I have attached the letter to Ms. Ryan which details the mistakes made by the National Visa Center in processing your applications.

The ultimate result seems to be that you were unfairly denied a diversity visa to which you were entitled. Please be assured our office is doing everything we can to find an administrative solution to your case. We are awaiting a response from the State Department, and I will communicate their response to you as soon as I receive it.

Again, I urge you to apply for the 1997 Diversity Visa Lottery, and I am sorry I cannot delivery better news. Please feel free to contact me should you have any questions. I can be reached at (202) 224–7878. I will update you as soon as I have any new information.

Sincerely,

PATRICIA FIRST.

ATTACHMENT TWO

U.S. SENATE,
Washington, DC, February 16, 1996.

MARY A. RYAN,
Assistant Secretary, Consular Affairs,
U.S. Department of State,
Washington, DC.

RE: 1995 Diversity Visa Lottery
Applicants: Belinda McGregor, David John McGregor
Case No: 95–EU–00020036

DEAR MS. RYAN: I am writing to request your assistance in resolving the above-referenced case. I am deeply concerned about the way this case was handled by the Department of State and the National Visa Center in New Hampshire.

Belinda McGregor, a citizen of the United Kingdom, and her husband, David John McGregor, a citizen of Ireland, each filed a separate application for the 1995 Diversity Visa Lottery program. As you know, although Belinda McGregor was born in the United Kingdom, she is eligible for the diversity program through her husband's Irish citizenship.

According to your visa office and the National Visa Center, Belinda McGregor's application was among those chosen as eligible to receive a diversity visa. When the National Visa Center received Belinda McGregor's application, however, the clerk handling her case erroneously assumed Ms. McGregor, as a citizen of the United Kingdom, was ineligible for the diversity program. The clerk, in an apparent attempt to remedy the problem, replaced Belinda McGregor's name in the computer with that of her husband, David John McGregor.

The National Visa Center then sent David John McGregor a notice that his name had

been selected in the 1995 Diversity Visa Lottery Program, and listed the additional information Mr. McGregor needed to provide to be eligible for a diversity visa (including, *inter alia*, educational background and an affidavit of support). David John McGregor provided this information about himself to the National Visa Center in a timely fashion. The McGregor's, who currently live in Austria, heard nothing more about Mr. McGregor's diversity application until they asked my office to inquire into the status of the application. Belinda McGregor was never informed that her application had been selected in the diversity lottery.

Upon receiving Mr. McGregor's completed information, a second clerk at the National Visa Center discovered that Belinda McGregor's name had been improperly changed to David John McGregor in the computer. This clerk changed the name back to Belinda McGregor, and noted the receipt of Mr. McGregor's information. The clerk, however, failed to inform the McGregor's that Belinda McGregor was the diversity applicant selected in the lottery, and, therefore, the National Visa Center needed information on Belinda McGregor, instead of David John McGregor.

Having not received any information on Belinda McGregor by the diversity visa entitlement date, September 30, 1995, the National Visa Center disqualified Belinda McGregor's application and gave her visa number to another applicant.

It appears that Belinda McGregor was unfairly denied the 1995 diversity visa which was rightfully hers due to a series of errors made by the National Visa Center. A review by your office of procedures at the National Visa Center may be in order. And, I would greatly appreciate your help in finding a solution to the McGregor's case in light of the serious errors committed by the Center. Thank you for your consideration.

Sincerely,

EDWARD M. KENNEDY.

ATTACHMENT THREE

U.S. DEPARTMENT OF STATE,
NATIONAL VISA CENTER,
Portsmouth, NH, March 14, 1996.

DEAR SENATOR KENNEDY: I refer to your letter of February 16, to Ms. Mary A. Ryan, Assistant Secretary for Consular Affairs, regarding the Diversity Lottery application for Ms. Melinda McGregor.

The Immigration Act of 1990 provides for an annual Diversity Immigration Program, making available each year by random selection 55,000 permanent residence visas in the United States. Visas are apportioned among six geographic regions based on immigration rates over the last five years, with a greater number of visas going to regions with lower rates of immigration.

The National Visa Center (NVC) acknowledges the allegations made in your correspondence as true and correct. However, there are no visa numbers available as the deadline for the 1995 Diversity Lottery was September 30, 1995. Unfortunately, we are unable to correct the situation at this time. Ms. McGregor may wish to apply for any future lotteries.

We have reviewed this incident with our staff and have taken steps to ensure that this error will not be repeated in the future.

I hope this information is helpful. Please do not hesitate to contact me if I can be of assistance to you in this or any other matter.

Sincerely,

BRIAN M. MCNAMARA,
Director.

ATTACHMENT FOUR

U.S. DEPARTMENT OF STATE,
NATIONAL VISA CENTER
Portsmouth, NH, April 21, 1997.

DEAR MS. MCGREGOR: Thank you for your letter of April 14 regarding the Diversity Lottery applications filed on your and Mr. John McGregor's behalf.

Please note that as a citizen of United Kingdom you were not eligible to apply for DV-lottery program in 1995. However, as a citizen or Ireland, Mr. McGregor was eligible to apply for this program and you were a derivative beneficiary of his application. Mr. McGregor's case was chosen at random and entered into the computer system at the National Visa Center (NVC). We assigned lottery rank number 95–EU–00020036 to this application.

Unfortuantely, the deadline for the completion of the DV–95 was September 30, 1995. If you were not issued a visa by this date, the application for the 1995 program is no longer valid.

Your correspondence indicates that you believe you may be eligible for immigrant visa issuance under the provision for the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Act 1996). However, this provision applies only to applicants who were residing in the U.S. and were unable to adjust their status. As you were residing outside the U.S. you are not eligible to be processed under the Act of 1996.

I hope this information is helpful. Please do not hesitate to contact me if I can be of further assistance to you in this or any other matter.

Sincerely.

JOSEFINA L. PAPENDICK,
Director.

ATTACHMENT FIVE

U.S. DEPARTMENT OF STATE,
NATIONAL VISA CENTER,
Portsmouth, NH, July 3, 1997.

Mrs. BELINDA MCGREGOR,
Bexleybeath, Kent, England.

DEAR MRS. MCGREGOR: I am replying to your e-mailed messages requesting a review of your DV–95 application. Since no paper file is still available after all this time, I am unable to provide any new or additional information regarding the processing of your case.

I recognize your sincere wish to immigrate to the United States. However, I very much regret to inform you that there is no provision of law or regulations that would allow your DV–95 application to be processed after September 30, 1995.

If you wish to pursue your interest in living and working in the United States, the diversity program is an option available every year for applicants (or their spouses) who were born in eligible countries. For individuals who are not eligible under any family immigrant visa category, there are other visa classifications, both non-immigrant and immigrant, in the employment or professional fields to apply for. For more information on these, I suggest you contact the American Embassy in London.

I am sorry that this response cannot be more encouraging. I wish you and your family the best of luck in the future.

Sincerely,

JOSEFINA L. PAPENDICK,
Director.

By Mr. GRAMM (for himself, Mr. LIEBERMAN, Mr. BINGAMAN, and Mr. DOMENICI):

S. 1305. A bill to invest in the future of the United States by doubling the amount authorized for basic scientific, medical, and precompetitive engineering research; to the Committee on Labor and Human Resources.

THE NATIONAL RESEARCH INVESTMENT ACT OF 1998

Mr. GRAMM. Mr. President, President Clinton has talked a lot about building a bridge to the 21st century and, our philosophical differences aside, I want to help him build that bridge—with Bucky Balls.

''Bucky Ball'' is the nickname for Buckminsterfullerene, a molecular form of carbon that was discovered by Prof's. Robert F. Curl and Richard E. Smalley of Rice University in Houston. They won the 1996 Nobel Prize in chemistry for this discovery.

Bucky Balls were named after R. Buckminster Fuller, the architect famous for his geodesic domes, because this new molecule closely resembles his designs. The silly nickname notwithstanding, their discovery was a breakthrough that will have scientific and practical applications across a wide variety of fields, from electrical conduction to the delivery of medicine into the human body.

Bucky Balls are impervious to radiation and chemical destruction, and can be joined to form tubes 10,000 times smaller than a human hair, yet 100 times stronger than steel. Use of the molecules is expected to establish a whole new class of materials for the construction of many products, from airplane wings and automobile bodies to clothing and packaging material.

This may be more than you want to know about molecular physics, but think about it this way: Because we encourage the kind of thinking that leads to discoveries like Bucky Balls, the United States stands as the economic, military, and intellectual leader of the world. We achieved this not by accident, but by a common, unswerving conviction that America's future was something to plan for, invest in, and celebrate. Using the products of imagination and hard work, from Winchester rifles and steam engines to space shuttles, Americans built a nation. We're still building, but for what we need in the next century, we're going to have to turn to people like Curl and Smalley to give us materials like Bucky Balls, and the Government has a role to play.

Unfortunately, over the past 30 years, the American Government has set different priorities. In 1965, 5.7 percent of the Federal budget was spent on nondefense research and development. Thirty-two years later in 1997, that figure has dropped by two-thirds. We spend a lot more money than we did in 1965, but we spend it on social programs, not science. We invest in the next elections, not the next generation.

The United States is underinvesting in basic research. That's right. The author of the landmark deficit reduction legislation known today as Gramm-Rudman supports the idea of the Government spending more money on something.

Not only do I support the idea of spending more on science and technology, I am today introducing a piece

of legislation to achieve that goal. I am pleased to be joined by Senators LIEBERMAN, DOMENICI, and BINGAMAN as I introduce S. 1305, the National Research Investment Act of 1998. This bill, an update of my earlier bill, S. 124, would double the amount spent by the Federal Government on basic scientific, medical, and precompetitive engineering research over 10 years from $34 billion in 1999 to $68 billion in 2008.

If we, as a country, do no restore the high priority once afforded science and technology in the Federal budget and increase Federal investment in research, it will be impossible to maintain the U.S. position as the technological leader of the world. Since 1970, Japan and Germany have spent a larger share of their national income on research and development than we have. We can no longer afford to fall behind. Expanding the Nation's commitment to research in basic science and medicine is a critically important investment in the future of our Nation. It means saying no to many programs with strong political support, but by expanding research we are saying yes to jobs and prosperity in the future.

I believe that if we want the 21st century to be a place worth building a bridge to, and if we want to maintain the U.S. position as the leader of the free world, then we need to restore the prominence that research and technology once had in the Federal budget. Our parent's generation fought two World Wars, overcame some of the worst economic conditions in the history of our Nation, and yet still managed to invest in America's future. We have an obligation to do at least an equal amount for our children and grandchildren.

Over the past 30 years, we have not lived up to this obligation, but it isn't too late to change our minds. The discovery of Bucky Balls is a testament to the resilience of the American scientific community. I believe that if we once again give scientists and researchers the support that they deserve, if we make the same commitment to our children's future that our parents made to ours, then the 21st century promises to be one of unlimited potential.

America is a great and powerful country for two reasons. First, we have had more freedom and opportunity than any other people who have ever lived and with that freedom and opportunity people like us have been able to achieve extraordinary things. Second, we have invested more in science than any people in history. Science has given us the tools and freedom has allowed us to put them to work. If we preserve freedom and invest in science, there is no limit on the future of the American people. I urge my colleagues to cosponsor this important legislation.

Mr. LIEBERMAN. Mr. President, the National Research Investment Act of 1998, which Senator GRAMM and I introduced this morning, is important legislation designed to reverse a downward trend in the Federal Government's allocation to science and engineering research. Although America currently enjoys a vibrant economy, with robust growth of over 4 percent and record low unemployment, we should pause for a moment to examine reasons which underlie our current prosperity.

In one of the few models agreed upon by a vast majority of economists, Dr. Robert Solow won the Nobel Prize for demonstrating that at least half of the total growth in the U.S. economy since the end of World War II is attributable to scientific and technological innovation. In other words, money spent to increase scientific and engineering knowledge represents an investment which pays rich dividends for America's future.

Dr. Solow's economic theory is the story of our Nation's innovation system—a system that has transformed scientific and technological innovation into a potent engine of economic growth for America. In broad terms, our innovation system consists of industrial, academic, and governmental institutions working together to generate new knowledge, new technologies, and people with the skills to move them effectively into the marketplace. Publicly funded science has shown to be surprisingly important to the innovation system. A new study prepared for the National Science Foundation found that 73 percent of the main science papers cited by American industrial patents in two recent years were based on domestic and foreign research financed by governments or nonprofit agencies.

Patents are the most visible expression of industrial creativity and the major way that companies and inventors are able to reap benefits from a bright idea. Even though industry now spends far more than the Federal Government on research, the fact that most patents result from research performed at universities, government labs, and other public agencies demonstrate our dependence on these institutions for the vast majority of economic activity. Such publicly funded science, the study concluded, has turned into a fundamental pillar of industrial advance.

Last week's awarding of the Nobel Prize to Dr. William Phillips from the Government's National Institute of Standards and Technology provides a wonderful example of how publicly funded science pays dividends. Dr. Phillips was honored for his work which used laser light to cool and trap individual atoms and molecules. I am told that the methods developed by Dr. Phillips and his coworkers may lead to the design of more precise atomic clocks for use in global navigation systems and atomic lasers, which may be used to manufacture very small electronic components for the next generation of computers. Dr. Phillips' achievement is the most visible recognition of the Department of Commerce's laboratory. Since 1901, however, the agency has quietly carried out research to develop accurate measurement and calibration techniques. The NIST laboratory, together with Commerce's technology programs, have greatly aided American business and earned our Nation billions of dollars in industries such as electrical power, semiconductor manufacturing, medical, agricultural, food processing, and building materials.

Yet, despite the demonstrated importance of publicly funded scientific research, the amount spent on science and engineering by the Federal Government is declining. Senator GRAMM has already noted that ''in 1965, 5.7 percent of the Federal budget was spent on nondefense research and development. Thirty two years later, that figure has dropped by two-thirds to 1.9 percent.'' If you believe as I do, that our current prosperity, intellectual leadership in science and medicine and the growth of entire new industries are directly linked to investments made 30 years ago, then you have got to ask where will this country be 30 years from now?

At the same time, it is likely that several countries, particularly in Asia, will exceed on a per capita basis, the U.S. expenditure in science. Japan is already spending more than we are in absolute dollars on nondefense research and development. This is an historic reversal. Germany, Singapore, Taiwan, China, South Korea, and India are aggressively promoting R&D investment. These facts led Erich Bloch, the former head of the National Science Foundation, to write that the ''whole U.S. R&D system is in the midst of a crucial transition. Its rate of growth has leveled off and could decline. We cannot assume that we will stay at the forefront of science and technology as we have for 50 years.''

The future implications of our failure to invest can be better understood if we consider what our lives would be like today without the scientific innovations of those past 50 years. Imagine medicine without x rays, surgical lasers, MRI scanners, fiber-optic probes, synthetic materials for making medical implants, and the host of new drugs that combat cancer and even show promise as suppressors of the AIDS virus. Consider how it would be to face tough choices about how to protect the environment without knowledge of upper atmospheric physics, chemistry of the ozone layer or understanding how toxic substances effect human health. Imagine communication without faxes, desktop computers, the internet, or satellites. Less tangible but nonetheless disconcerting, is the prospect of a future for our country of free thinkers, if all new advances and innovation were to originate from outside of America's shores.

Although difficult, the partisan conflicts and rifts of the past several years may have performed a useful service in clarifying the debate over when public funding on research is justified. Senator GRAMM and I have discussed this

topic at some length. We believe it is a mistake to separate research into two warring camps, one flying the flag of basic science and the other applied science. Rather the research enterprise represents a broad spectrum of human activity with basic and applied science at either end but not in opposition. Every component along the spectrum produces returns—economic, social, and intellectual gains for the society as a whole. The Federal Government should patiently invest in science, medicine, and engineering that lies within the public domain. Once an industry or company begins to pursue proprietary research, then support for that particular venture is best left to the private sector. This is what we mean by the term ''precompetitive research.''

With introduction of the National Research Investment Act of 1998, we begin a bipartisan effort to build a consensus that will support a significant increase in Federal research and development efforts. I am particularly appreciative of the support given today from nearly 100 different scientific and engineering professional societies which collectively represent many more than 1 million members. Accomplishments of your members illuminate the role that science and engineering plays in the innovation process.

In a Wall Street Journal survey of leading economists published in March, 43 percent cited investments in education and research and development as the Federal action that would have the most positive impact on our economy. No other factors, including reducing Government spending or lowering taxes, scored more than 10 percent. While Senator GRAMM and I are certainly committed to fiscal responsibility and balancing the budget, we think that the country would be best served by promoting investments in education and R&D and reducing entitlement consumption spending. Failure to do so now may well imperil America's future economic vitality and our leadership in science and technology.

Mr. BINGAMAN. Mr. President, I am pleased to be an original cosponsor of S. 1305, the National Research Investment Act of 1998.

Boosting the strength of our R&D infrastructure is crucially important to the future health and prosperity of every inhabitant of my home State of New Mexico, just as it is to every American. The scientific, technical, and medical advances of the past 40 years have dramatically improved our standard of living. If we are to maintain these advances into the future, we cannot afford to stand still.

Unfortunately, we are now headed in the wrong direction. Federal funding for research and development has declined as an overall percentage of the Federal budget over the last 20 years. We now spend less than 2 cents of each dollar of Federal spending on science and engineering research and development. We need to do better. It is clear that if we want to create the kind of high-paying, high-technology jobs that will ensure a decent standard of living for American workers, we will need a much stronger commitment to investing in research and development.

Although the focus of this bill is ensuring a strong future for civilian R&D, it is important to recognize that the basic science and fundamental technology development supported by the Defense portion of our budget also contributes to our domestic prosperity. For our Nation to remain prosperous into the next century, we need both sources of support for basic science and fundamental technology to remain strong, even in a time of constrained budgets.

There was a time when our investment in research and development equaled that of the rest of the world combined. But through the years, we have allowed our commitment to slide, and have lost much ground compared to our international competitors. Mr. President, this is not where we want to be, and I hope that the National Research Investment Act of 1998 will put us on the path to a better future.

By Mr. DASCHLE:

S. 1307. A bill to amend the Employee Retirement Income Security Act of 1974 with respect to rules governing litigation contesting termination or reduction of retiree health benefits and to extend continuation coverage to retirees and their dependents; to the Committee on Labor and Human Resources.

THE RETIREE HEALTH BENEFITS PROTECTION ACT OF 1997

Mr. DASCHLE. Mr. President, today I am introducing a bill that restores employer health coverage to individuals who, throughout their careers, were led to believe their retiree health benefits were secure. These retirees earned their benefits through years of labor and have reached an age when other private coverage is difficult if not impossible to find. The Retiree Health Benefits Protection Act of 1997 reempowers retirees whose employers renege, often without notice, on a commitment they made to retiree security and health.

The bill I am offering today melds two measures I first introduced in the 104th Congress. The goal is to restore retirees' rights and options when their former employer takes action to terminate their health benefits.

The legislation was drafted to address a serious problem brought to my attention by the retirees of the Morrell meatpacking plant in Sioux Falls, SD. In January 1995, more than 3,300 Morrell retirees in Sioux Falls and around the country were given 1 week's notice that their health benefits were being terminated.

Pre-Medicare retirees were offered continued health coverage for only one year under Morrell's group plan, if the retiree assumed the full cost of coverage. When this option lapsed in January 1996, many of these people became uninsured. These retirees, like so many who face this situation, had spent years building the company and taking lower pensions or wages in exchange for the promise of retiree health benefits.

This problem is unfortunately not limited to the Morrell retirees. Recent data confirms that a declining share of employers maintain health benefits for their retirees. In fact, the percentage of large employers offering such coverage has dropped by nearly 10 percentage points over the last 5 years. In 1991, 80 percent of large employers provided retiree benefits. As of 1996, 71 percent do.

Early retirees age 50–64 who lose their health benefits are especially vulnerable to becoming uninsured, because health insurance is expensive when purchased at an older age, or unavailable as a result of preexisting conditions.

The bill I am introducing today would establish a number of protections to address this alarming trend.

To minimize unexpected terminations of benefits, my bill would ensure that benefits are terminated or reduced only when evidence shows that retirees were given adequate warning—before their retirement—that their health care benefits were not promised for their lifetimes. If the contract language establishing retiree benefits is silent or ambiguous about the termination of these benefits, my bill would place the burden of proof on the employer to show that the plan allows for the termination or reduction of retiree health benefits.

To help protect coverage for retirees and their families until fair settlements are reached, if an employer's decision to terminate benefits is challenged in court, my bill requires the employer to continue to provide retiree health benefits while these benefits are in litigation.

To prevent early retirees and their families from being left uninsured, this legislation would extend so-called COBRA benefits to early retirees and their dependents whose employer-sponsored health care benefits are terminated or substantially reduced.

Broadly stated, COBRA currently requires employers to offer continuing health coverage for up to 18 months for employees who leave their place of employment. The employee is responsible for the entire cost of the premium, but is allowed to remain in the group policy, thus taking advantage of lower group rates. This legislation would extend the COBRA law to cover early retirees and their families who are more than 18 months away from Medicare eligibility.

This bill would not prohibit employers from modifying their retiree health benefits to implement legitimate cost-savings measures, such as utilization review or managed care arrangements.

Mr. President, retirees deserve this kind of health security.

Workers often give up larger pensions and other benefits in exchange for health benefits. Unfortunately, in the case of the Morrell employees and far too many others, the thanks they get for their sacrifices is that their benefits are taken away with no notice and no compensating increase in their pensions or other benefits.

Early retirees often have been with the same company for decades, perhaps all of their adult lives. They rightfully believe that a company they help build will reward their loyalty, honesty, and hard work.

It is time for this Congress to address this victimization of retirees by companies that put profits before integrity and cost-cutting before fairness. We should not simply sit back while this system creates another population of uninsured individuals. Instead, we should take this opportunity to preserve private coverage for as many retirees as possible and restore the financial security and freedom they earned and thought they could depend upon.

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

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

S. 1307

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 ''Retiree Health Benefits Protection Act''.

TITLE I—RETIREE HEALTH BENEFITS PROTECTION

SEC. 101. RULES GOVERNING LITIGATION INVOLVING RETIREE HEALTH BENEFITS.

(a) IN GENERAL.—Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 et seq.) is amended by adding at the end the following new section:

''SEC. 516. RULES GOVERNING LITIGATION INVOLVING RETIREE HEALTH BENEFITS.

''(a) MAINTENANCE OF BENEFITS.—

''(1) IN GENERAL.—If—

''(A) retiree health benefits or plan or plan sponsor payments in connection with such benefits are to be or have been terminated or reduced under an employee welfare benefit plan; and

''(B) an action is brought by any participant or beneficiary to enjoin or otherwise modify such termination or reduction,

the court without requirement of any additional showing shall promptly order the plan and plan sponsor to maintain the retiree health benefits and payments at the level in effect immediately before the termination or reduction while the action is pending in any court. No security or other undertaking shall be required of any participant or beneficiary as a condition for issuance of such relief. An order requiring such maintenance of benefits may be refused or dissolved only upon determination by the court, on the basis of clear and convincing evidence, that the action is clearly without merit.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any action if—

''(A) the termination or reduction of retiree health benefits is substantially similar to a termination or reduction in health benefits (if any) provided to current employees which occurs either before, or at or about the same time as, the termination or reduction of retiree health benefits, or

''(B) the changes in benefits are in connection with the addition, expansion, or clarification of the delivery system, including utilization review requirements and restrictions, requirements that goods or services be obtained through managed care entities or specified providers or categories of providers, or other special major case management restrictions.

''(3) MODIFICATIONS.—Nothing in this section shall preclude a court from modifying the obligation of a plan or plan sponsor to the extent retiree benefits are otherwise being paid by the plan sponsor.

''(b) BURDEN OF PROOF.—In addition to the relief authorized in subsection (a) or otherwise available, if, in any action to which subsection (a)(1) applies, the terms of the employee welfare benefit plan summary plan description or, in the absence of such description, other materials distributed to employees at the time of a participant's retirement or disability, are silent or are ambiguous, either on their face or after consideration of extrinsic evidence, as to whether retiree health benefits and payments may be terminated or reduced for a participant and his or her beneficiaries after the participant's retirement or disability, then the benefits and payments shall not be terminated or reduced for the participant and his or her beneficiaries unless the plan or plan sponsor establishes by a preponderance of the evidence that the summary plan description or other materials about retiree benefits—

''(1) were distributed to the participant at least 90 days in advance of retirement or disability;

''(2) did not promise retiree health benefits for the lifetime of the participant and his or her spouse; and

''(3) clearly and specifically disclosed that the plan allowed such termination or reduction as to the participant after the time of his or her retirement or disability.

The disclosure described in paragraph (3) must have been made prominently and in language which can be understood by the average plan participant.

''(c) REPRESENTATION.—Notwithstanding any other provision of law, an employee representative of any retired employee or the employee' spouse or dependents may—

''(1) bring an action described in this section on behalf of such employee, spouse, or dependents; or

''(2) appear in such an action on behalf of such employee, spouse or dependents.

''(d) RETIREE HEALTH BENEFITS.—For the purposes of this section, the term 'retiree health benefits' means health benefits (including coverage) which are provided to—

''(1) retired or disabled employees who, immediately before the termination or reduction, have a reasonable expectation to receive such benefits upon retirement or becoming disabled; and

''(2) their spouses or dependents.''

(b) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 515 the following new item:

''Sec. 516. Rules governing litigation involving retiree health benefits.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions relating to terminations or reductions of retiree health benefits which are pending or brought, on or after January 1, 1998.

TITLE II—RETIREE CONTINUATION COVERAGE

SEC. 201. EXTENSION OF COBRA CONTINUATION COVERAGE.

(a) PUBLIC HEALTH SERVICE ACT.—

(1) TYPE OF COVERAGE.—

(A) IN GENERAL.—Section 2202(1) of the Public Health Service Act (42 U.S.C. 300bb–2(1)) is amended—

(i) by striking ''The coverage'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the coverage''; and

(ii) by adding at the end the following:

''(B) CERTAIN RETIREES.—In the case of an event described in section 2203(6), the qualified beneficiary may elect to continue coverage as provided for in subparagraph (A) or may elect coverage—

''(i) under any other plan offered by the State, political subdivision, agency, or instrumentality involved; or

''(ii) notwithstanding paragraphs (4) and (5) of section 2741(b), through any health insurance issuer offering health insurance coverage (as defined in section 2791(b)(1)) in the individual market in the State.''.

(B) TECHNICAL AMENDMENT.—Section 2202(2)(D)(i) of the Public Health Service Act (42 U.S.C. 300bb–2(2)(D)(i)) is amended by striking ''covered under any other'' and inserting ''except with respect to coverage obtained under paragraph (1)(B), covered under any other''.

(2) PERIOD OF COVERAGE.—Section 2202(2)(A) of the Public Health Service Act (42 U.S.C. 300bb–2(2)(A)) is amended by adding at the end thereof the following new clause:

''(v) QUALIFYING EVENT INVOLVING SUBSTANTIAL REDUCTION OR ELIMINATION OF A RETIREE GROUP HEALTH PLAN.—In the case of an event described in section 2203(6), the date on which such covered qualified beneficiary becomes entitled to benefits under title XVIII of the Social Security Act.''.

(3) QUALIFYING EVENT.—Section 2203 of the Public Health Service Act (42 U.S.C. 300bb–3) is amended by adding at the end thereof the following new paragraph:

''(6) The substantial reduction or elimination of group health coverage as a result of plan changes or termination with respect to a qualified beneficiary described in section 2208(3)(A).''.

(4) NOTICE.—Section 2206 of the Public Health Service Act (42 U.S.C. 300bb–6) is amended—

(A) in paragraph (2), by striking ''or (4)'' and inserting ''(4), or (6)''; and

(B) in paragraph (4)(A), by striking ''or (4)'' and inserting ''(4), or (6)''.

(5) DEFINITION.—Section 2208(3) of the Public Health Service Act (42 U.S.C. 300bb–8(3)) is amended by adding at the end thereof the following new subparagraph:

''(C) SPECIAL RULE FOR RETIREES.—In the case of a qualifying event described in section 2203(6), the term 'qualified beneficiary' includes a covered employee who had retired on or before the date of substantial reduction or elimination of coverage and any other individual who, on the day before such qualifying event, is a beneficiary under the plan—

''(i) as the spouse of the covered employee;

''(ii) as the dependent child of the covered employee; or

''(iii) as the surviving spouse of the covered employee.''.

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) TYPE OF COVERAGE.—

(A) IN GENERAL.—Section 602(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(1)) is amended—

(i) by striking ''The coverage'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the coverage''; and

(ii) by adding at the end the following:

''(B) CERTAIN RETIREES.—In the case of an event described in section 603(7), the qualified beneficiary may elect to continue coverage as provided for in subparagraph (A) or may elect coverage—

''(i) under any other plan maintained by the plan sponsor involved; or

''(ii) notwithstanding paragraphs (4) and (5) of section 2741(b) of the Public Health Service Act, through any health insurance issuer offering health insurance coverage (as defined in section 2791(b)(1) of such Act) in the individual market in the State.''.

(B) TECHNICAL AMENDMENT.—Section 602(2)(D)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(D)(i)) is amended by striking ''covered under any other'' and inserting ''except with respect to coverage obtained under paragraph (1)(B), covered under any other''.

(2) PERIOD OF COVERAGE.—Section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) is amended by adding at the end thereof the following new clause:

''(vi) QUALIFYING EVENT INVOLVING SUBSTANTIAL REDUCTION OR ELIMINATION OF A GROUP HEALTH PLAN COVERING RETIREES, SPOUSES AND DEPENDENTS.—In the case of an event described in section 603(7), the date on which such covered qualified beneficiary becomes entitled to benefits under title XVIII of the Social Security Act.''.

(3) QUALIFYING EVENT.—Section 603 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163) is amended by adding at the end thereof the following new paragraph:

''(7) The substantial reduction or elimination of group health plan coverage as a result of plan changes or termination with respect to a qualified beneficiary described in section 607(3)(C).''.

(4) NOTICE.—Section 606(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166) is amended—

(A) in paragraph (2), by striking ''or (6)'' and inserting ''(6), or (7)''; and

(B) in paragraph (4)(A), by striking ''or (6)'' and inserting ''(6), or (7)''.

(5) DEFINITION.—Section 607(3)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(2)) is amended by striking ''603(6)'' and inserting ''603(6) or 603(7)''.

(c) INTERNAL REVENUE CODE OF 1986.—

(1) TYPE OF COVERAGE.—

(A) IN GENERAL.—Section 4980B(f)(2)(A) of the Internal Revenue Code of 1986 is amended—

(i) by striking ''The coverage'' and inserting the following:

''(i) IN GENERAL.—Except as provided in clause (ii), the coverage''; and

(ii) by adding at the end the following:

''(ii) CERTAIN RETIREES.—In the case of an event described in paragraph (3)(G), the qualified beneficiary may elect to continue coverage as provided for in clause (i) or may elect coverage—

''(I) under any other plan maintained by the plan sponsor involved; or

''(II) notwithstanding paragraphs (4) and (5) of section 2741(b) of the Public Health Service Act, through any health insurance issuer offering health insurance coverage (as defined in section 2791(b)(1) of such Act) in the individual market in the State.''.

(B) TECHNICAL AMENDMENT.—Section 4980B(f)(2)(B)(iv)(I) of the Internal Revenue Code of 1986 is amended by striking ''covered under any other'' and inserting ''except with respect to coverage obtained under paragraph (1)(B), covered under any other''.

(2) PERIOD OF COVERAGE.—Section 4980B(f)(2)(B)(i) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subclause:

''(VI) QUALIFYING EVENT INVOLVING SUBSTANTIAL REDUCTION OR ELIMINATION OF A RETIREE GROUP HEALTH PLAN.—In the case of an event described in paragraph (3)(G), the date on which such covered qualified beneficiary becomes entitled to benefits under title XVIII of the Social Security Act.''.

(3) QUALIFYING EVENT.—Section 4980B(f)(3) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subparagraph:

''(G) The substantial reduction or elimination of group health coverage as a result of plan changes or termination with respect to a qualified beneficiary described in subsection (g)(1)(D).''.

(4) NOTICE.—Section 4980B(f)(6) of the Internal Revenue Code of 1986 is amended—

(A) in subparagraph (B), by striking ''or (F)'' and inserting ''(F), or (G)''; and

(B) in subparagraph (D)(i), by striking ''or (F)'' and inserting ''(F), or (G)''.

(5) DEFINITION.—Section 4980B(g)(1)(D) of the Internal Revenue Code of 1986 is amended by striking ''(f)(3)(F)'' and inserting ''(f)(3)(F) or (f)(3)(G)''.

SEC. 202. EFFECTIVE DATE.

This title shall take effect as if enacted on January 1, 1998.

By Mr. BREAUX (for himself and Mr. KERREY):

S. 1308. A bill to amend the Internal Revenue Code of 1986 to ensure taxpayer confidence in the fairness and independence of the taxpayer problem resolution process by providing a more independently operated Office of the Taxpayer Advocate, and for other purposes; to the Committee on Finance.

THE TAXPAYER PROTECTION ACT OF 1997

Mr. BREAUX. Mr. President, this afternoon, I rise to introduce legislation representing, I think, a very important step in giving American taxpayers an additional tool for them to use in solving problems that they have when they are entering into a dispute with the Internal Revenue Service. My bill would ensure that American taxpayers have someone with real authority and significant resources who will represent their interests when dealing with IRS, a true taxpayer advocacy organization which will be on the side of the American taxpayer and not on the side of Washington bureaucrats.

I want to also point out that I am proud to be a cosponsor of the Kerrey-Grassley bill, which is a broader restructuring of the entire Internal Revenue Service, that came about as part of the work that the bipartisan commission studied for over a year's time.

The bill, however, that I am introducing today will strengthen the part of the bill dealing with the Office of Taxpayer Advocate by making the advocate's office much more independent than it is now and giving it more muscle in representing the interests of American taxpayers.

Last month, our Senate Finance Committee had 3 days of hearings looking at the practices and procedures within the Internal Revenue Service. In addition to hearing from taxpayers who had been mistreated by the Internal Revenue Service, our committee also heard very shocking testimony from both current and former IRS employees. These witnesses clearly underscored the importance of doing some major changes in how the Internal Revenue Service operates.

We heard, for instance, Acting Commissioner of IRS Mike Nolan say, ''The IRS is undergoing tremendous change.''

That is very encouraging and also very long overdue. My concern is that there is a big disconnect between the Commissioner's office and over 100,000 IRS employees who work all over America, and even a greater disconnect between some of these employees—not all, but some—and the American taxpayer. This became very painfully clear as a result of our 3 days of hearings.

I want to point out that the IRS is a very convenient political punching bag for many, and speeches condemning the IRS are met with widespread applause at any type of a townhall meeting you want to have. But this is not an issue that we should demagog. Americans want us to solve the problem and not just pass the blame around and blame the other side for their failures.

As was the case with the balanced budget amendment, Republicans and Democrats need to come together in a bipartisan fashion and act responsibly to come up with some real changes that are going to help address this problem and protect the American taxpayer.

Unless we don't want a national defense or a public highway system or schools and national parks, we have to ask ourselves, what will we have if we just eliminated the Internal Revenue Service? When the Department of Defense, I am reminded, had all of these problems buying $200 toilet seats and $500 hammers, we didn't do away with the Department of Defense, we reformed it. We gave them specific instructions on how they should conduct their business. As a result, we still have a Department of Defense, thank goodness, but it is operating more efficiently and more effectively and not making the type of mistakes that we saw in the past. The bottom line is we reformed it. We have to do the same thing with the Internal Revenue Service.

There are many issues to look at when we talk about how to restructure. One is IRS management, how to model a new oversight structure at the IRS that would make it more responsive and accountable to their management problems.

There also is a separate issue, and that is how to strengthen the hand of the American taxpayer when they have to deal with the Internal Revenue Service and let our American taxpayers know that somewhere there is someone who is on their side when they have problems with the Federal Government and specifically with the IRS.

On the first issue of management, attention has focused on who should sit on the board of directors that runs an IRS and what kind of authority and responsibilities this board would have. I

think there is widespread agreement that the management and oversight of the IRS needs to improve dramatically. We need to have more private sector involvement in that board of directors.

The Finance Committee is going to have hearings on the restructuring question next week. I hope that we have a fair and open discussion about what needs to be done, because that is the only way a solution will be arrived at. I personally think we should try and model the management of IRS on a real board of directors, a concept that is part of the bill introduced by Senator KERREY and Senator GRASSLEY and also Congressmen PORTMAN and CARDIN in the House of Representatives. I am a cosponsor of their legislation and will be actively participating in getting that done.

There is no reason why the Internal Revenue Service shouldn't be just as advanced technologically from an organizational standpoint as any Fortune 500 company in America. Our goal should be to have an oversight board that improves the IRS accountability and also their operations. A better managed IRS will translate into better customer service for taxpayers.

But just as important, however, we need to look at ways to improve the everyday outcomes when taxpayers have a problem and have to engage with the IRS. An oversight board may solve some of those, but we need to put in place some independent group that is going to represent the interests of the American taxpayer on a day-to-day basis, and that is what my legislation would do.

Currently, the IRS has an Office of Taxpayer Advocate whose job is to represent the American taxpayers in dealings with the IRS. The problem with the current structure, however, is that this taxpayer advocate does not have enough independence. The taxpayer advocate in each district reports directly to the district director of the IRS. Taxpayers need someone who will work for them and represent their interests and not just be an employee of the IRS.

My bill would make the taxpayer advocate a great deal more independent by giving it more resources, more authority and more responsibilities. The American taxpayers would then have someone working for them and not just working for the IRS when they need help.

My bill would do the following:

No. 1: A national taxpayer advocate would be appointed directly by the President, with the advice and consent of the Senate. He or she would not continue to be appointed by the IRS Commissioner. The national taxpayer advocate would also not be selected from the ranks of the IRS, to make sure that person is truly independent.

No. 2: The national taxpayer advocate will make the hiring and firing decisions regarding the heads of the local taxpayer advocate office in the IRS district and service centers. No longer would the local taxpayer advocate be hired and fired by the district director.

No. 3: The initial contact between the IRS and the taxpayer will include a disclosure that the taxpayers have a right to contact their local taxpayer advocate and information on how to contact them so that the taxpayer will know that this office is there and it is there to protect their legitimate interests.

No. 4: The local taxpayer advocate office would have a separate phone number, fax number, and post office box apart from the IRS district office.

And finally, No. 5: The taxpayer advocate would also have the discretion not to disclose taxpayer information to IRS employees, another tool which could help taxpayers.

All of these measures are designed to give the taxpayer advocate a much stronger voice, a much stronger hand in representing American taxpayers. What taxpayers in this country need is someone who is on their side, not on the Government side, who has the resources to go up against the IRS.

I have been working closely with Senator KERREY and pleased he supports including my provision in the overall bill that they are planning to introduce. So, I think we are making progress. I think we ought to be doing it in a continued responsible fashion, in a bipartisan fashion. If we can get this done, I just suggest that the American taxpayer will now know that there is some office that is on their side representing their interests before their Government.

By Mr. KERRY (for himself, Mr. BOND, Mr. ROCKEFELLER, Mr. CHAFEE, Mr. KENNEDY, Mr. HOLLINGS, MS. LANDRIEU, Mr. WELLSTONE, Ms. MOSELEY-BRAUN, Mrs. BOXER, Mr. TORRICELLI, and Mr. JOHNSON):

S. 1309. A bill to provide for the health, education, and welfare of children under 6 years of age; to the Committee on Labor and Human Resources.

THE EARLY CHILDHOOD DEVELOPMENT ACT

Mr. KERRY. Mr. President, I am delighted to introduce today the Early Childhood Development Act with Senator BOND. I want to thank Senator BOND for his leadership, both as a Governor who began the successful Parents as Teachers Program and for joining together in this bipartisan effort to develop a real world solution to real world problems.

Mr. President, there is no issue more important in America than the urgent needs of young children. This country must rededicate itself to investing in children, an investment which will have tremendous returns. Early intervention can have a powerful effect on reducing Government welfare, health, criminal justice, and education expenditures in the long run. By taking steps now we can significantly reduce later destructive behavior such as school dropout, drug use, and criminal acts. A study of the High/Scope Foundation's Perry Preschool found that at-risk toddlers who received preschooling and a weekly home visit reduced the risk that these children would grow up to become chronic lawbreakers by a startling 80 percent. The Syracuse University Family Development Study showed that providing quality early-childhood programs to families until children reached age 5 reduces the children's risk of delinquency 10 years later by 90 percent. It's no wonder that a recent survey of police chiefs found that 9 out of 10 said that ''America could sharply reduce crime if Government invested more'' in these early intervention programs.

These programs are successful because children's experiences during their early years of life lay the foundation for their future development. Our failure to provide young children what they need during this period has long-term consequences and costs for America. Recent scientific evidence conclusively demonstrates that enhancing children's physical, social, emotional, and intellectual development will result in tremendous benefits for children, families, and our Nation. The electrical activity of brain cells actually changes the physical structure of the brain itself. Without a stimulating environment, the baby's brain suffers. At birth, a baby's brain contains 100 billion neurons, roughly as many nerve cells as there are stars in the Milky Way. But the wiring pattern between these neurons develops over time. Children who play very little or are rarely touched develop brains 20 to 30 percent smaller than normal for their age.

Mr. President, reversing these problems later in life is far more difficult and costly. I want to discuss several examples.

First, poverty seriously impairs young children's language development, math skills, IQ scores, and their later school completion. Poor young children also are at heightened risk of infant mortality, anemia, and stunted growth. Of the 12 million children under the age of 3 in the United States today, 3 million—25 percent—live in poverty.

Second, three out of five mothers with children younger than 3 work, but one study found that 40 percent of the facilities at child care centers serving infants provided care of such poor quality as to actually jeopardize children's health, safety, or development.

Third, in more than half of the States, one out of every four children between 19 months and 3 years of age is not fully immunized against common childhood diseases. Children who are not immunized are more likely to contact preventable diseases, which can cause long-term harm.

And fourth, children younger than 3 make up 27 percent of the 1 million children who are determined to be abused or neglected each year. Of the 1,200 children who died from abuse and neglect in 1995, 85 percent were younger than 5 and 45 percent were younger than 1.

Unfortunately, Mr. President, our Government expenditure patterns are

inverse to the most important early development period for human beings. Although we know that early investment can dramatically reduce later remedial and social costs, currently our Nation spends more than $35 billion over 5 years on Federal programs for at-risk or delinquent youth and child welfare programs for children ages 12 to 18, but far less for children from birth to age 6.

Today we seek to change our priorities and put children first. I am introducing the Early Childhood Development Act of 1997 to help empower local communities to provide essential interventions in the lives of our youngest at-risk children and their families.

This legislation seeks to provide support to families by minimizing Government bureaucracy and maximizing local initiatives. We would provide additional funding to communities to expand the thousands of successful efforts for at-risk children ages zero to 6 such as those sponsored by the United Way, Boys and Girls Clubs, and other less well-known grassroots organizations, as well as State initiatives such as Success By Six in Massachusetts and Vermont, the Parents as Teachers program in Missouri, Healthy Families in Indiana, and the Early Childhood Initiative in Pittsburgh, PA. All are short on resources. And nowhere do we adequately meet demand although we know that many States and local communities deliver efficient, cost-effective, and necessary services. Extending the reach of these successful programs to millions of children currently underserved will increase our national well-being and ultimately save billions of dollars.

The second part of this bill would provide funding to States to help them provide a subsidy to all working poor families to purchase quality child care for infants, toddlers, and preschool children. We would not create a new program but would simply increase resources for the successful Child Care and Development Block Grant [CCDBG]. Child care for infants and toddlers is much more expensive than for older children since a higher level of care is necessary. Additional funding would also pay for improving the salaries and training level of child care workers, improving the facilities of child care centers and family child care homes, and providing enriched developmentally appropriate educational opportunities.

Finally, the bill would increase funding for the Early Head Start Program. The successful Head Start Program provides quality services to 4 and 5 year-olds. The Early Head Start program, which currently is a modest program funded at $200 million annually, provides comprehensive child development and family support services to infants and toddlers. Expanding this program would help more young children receive the early assistance they need.

I was delighted to be joined earlier today by Dr. Berry Brazelton and Rob Reiner to announce this bill. I want to thank Governor Dean of Vermont and Governor Romer of Colorado for supporting this legislation and the wide range of groups who support this legislation including the Association of Jewish Family & Children's Agencies, Boys and Girls Clubs of America, Children's Defense Fund, Child Welfare League of America, Coalition On Human Needs, Harvard Center for Children's Health, Jewish Council for Public Affairs, National Black Child Development Institute, Inc., National Council of Churches of Christ in the USA, Religious Action Center of Reform Judaism, and Rob Reiner of the I Am Your Child Campaign.

Children need certain supports during their early critical years if they are to thrive and grow to be contributing adults. I look forward to working with Senator BOND and both sides of the aisle to pass this legislation and ensure that all children arrive at school ready to learn.

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

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

S. 1309

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Early Childhood Development Act of 1997''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—ASSISTANCE FOR YOUNG CHILDREN

Sec. 101. Definitions.
Sec. 102. Allotments to States.
Sec. 103. Grants to local collaboratives.
Sec. 104. Supplement not supplant.
Sec. 105. Authorization of appropriations.

TITLE II—CHILD CARE FOR FAMILIES

Sec. 201. Amendment to Child Care and Development Block Grant Act of 1990.

TITLE III—AMENDMENTS TO THE HEAD START ACT

Sec. 301. Authorization of appropriations.
Sec. 302. Allotment of funds.
Sec. 303. Effective date.

SEC. 2. FINDINGS.

Congress makes the following findings—

(1) The Nation's highest priority should be to ensure that children begin school ready to learn.

(2) New scientific research shows that the electrical activity of brain cells actually changes the physical structure of the brain itself and that without a stimulating environment, a baby's brain will suffer. At birth, a baby's brain contains 100,000,000,000 neurons, roughly as many nerve cells as there are stars in the Milky Way. But the wiring pattern between these neurons develops over time. Children who play very little or are rarely touched develop brains that are 20 to 30 percent smaller than normal for their age.

(3) This scientific evidence also conclusively demonstrates that enhancing children's physical, social, emotional, and intellectual development will result in tremendous benefits for children, families, and our Nation.

(4) Since more than 50 percent of the mothers of children under the age of 3 now work outside of the home, our society must change to provide new supports so young children receive the attention and care that they need.

(5) There are 12,000,000 children under the age of 3 in the United States today and 1 in 4 lives in poverty.

(6) Compared with most other industrialized countries, the United States has a higher infant mortality rate, a higher proportion of low-birth weight babies, and a smaller proportion of babies immunized against childhood diseases.

(7) National and local studies have found a strong link between increased violence and crime among youth when there is no early intervention.

(8) The United States will spend more than $35,000,000,000 over the next 5 years on Federal programs for at-risk or delinquent youth and child welfare programs, which address crisis situations which frequently could be avoided or made much less severe with good early interventions.

(9) Many local communities across the country have developed successful early childhood efforts and with additional resources could expand and enhance opportunities for young children.

TITLE I—ASSISTANCE FOR YOUNG CHILDREN

SEC. 101. DEFINITIONS.

In this title:

(1) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) POVERTY LINE.—The term ''poverty line'' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(4) STATE BOARD.—The term ''State board'' means a State Early Learning Coordinating Board established under section 102(c).

(5) YOUNG CHILD.—The term ''young child'' means an individual from birth through age 5.

(6) YOUNG CHILD ASSISTANCE ACTIVITIES.—The term ''young child assistance activities'' means the activities described in paragraphs (1) and (2)(A) of section 103(b).

SEC. 102. ALLOTMENTS TO STATES.

(a) IN GENERAL.—The Secretary shall make allotments under subsection (b) to eligible States to pay for the Federal share of the cost of enabling the States to make grants to local collaboratives under section 103 for young child assistance activities.

(b) ALLOTMENT.—

(1) IN GENERAL.—From the funds appropriated under section 105 for each fiscal year and not reserved under subsection (i), the Secretary shall allot to each eligible State an amount that bears the same relationship to such funds as the total number of young children in poverty in the State bears to the total number of young children in poverty in all eligible States.

(2) YOUNG CHILD IN POVERTY.—In this subsection, the term ''young child in poverty'' means an individual who—

(A) is a young child; and

(B) is a member of a family with an income below the poverty line.

(c) STATE BOARDS.—

(1) IN GENERAL.—In order for a State to be eligible to obtain an allotment under this title, the Governor of the State shall establish, or designate an entity to serve as, a

State Early Learning Coordinating Board, which shall receive the allotment and make the grants described in section 103.

(2) ESTABLISHED BOARD.—A State board established under paragraph (1) shall consist of the Governor and members appointed by the Governor, including—

(A) representatives of all State agencies primarily providing services to young children in the State;

(B) representatives of business in the State;

(C) chief executive officers of political subdivisions in the State;

(D) parents of young children in the State;

(E) officers of community organizations serving low-income individuals, as defined by the Secretary, in the State;

(F) representatives of State nonprofit organizations that represent the interests of young children in poverty, as defined in subsection (b), in the State;

(G) representatives of organizations providing services to young children and the parents of young children, such as organizations providing child care, carrying out Head Start programs under the Head Start Act (42 U.S.C. 9831 et seq.), providing services through a family resource center, providing home visits, or providing health care services, in the State; and

(H) representatives of local educational agencies.

(3) DESIGNATED BOARD.—The Governor may designate an entity to serve as the State board under paragraph (1) if the entity includes the Governor and the members described in subparagraphs (A) through (G) of paragraph (2).

(4) DESIGNATED STATE AGENCY.—The Governor shall designate a State agency that has a representative on the State board to provide administrative oversight concerning the use of funds made available under this title and ensure accountability for the funds.

(d) APPLICATION.—To be eligible to receive an allotment under this title, a State board shall annually submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. At a minimum, the application shall contain—

(1) sufficient information about the entity established or designated under subsection (c) to serve as the State board to enable the Secretary to determine whether the entity complies with the requirements of such subsection;

(2) a comprehensive State plan for carrying out young child assistance activities;

(3) an assurance that the State board will provide such information as the Secretary shall by regulation require on the amount of State and local public funds expended in the State to provide services for young children; and

(4) an assurance that the State board shall annually compile and submit to the Secretary information from the reports referred to in section 103(d)(2)(F)(iii) that describes the results referred to in section 103(d)(2)(F)(i).

(e) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost described in subsection (a) shall be—

(A) 85 percent, in the case of a State for which the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b))) is not less than 50 percent but is less than 60 percent;

(B) 87.5 percent, in the case of a State for which such percentage is not less than 60 percent but is less than 70 percent; and

(C) 90 percent, in the case of any State not described in subparagraph (A) or (B).

(2) STATE SHARE.—

(A) IN GENERAL.—The State shall contribute the remaining share (referred to in this paragraph as the ''State share'') of the cost described in subsection (a).

(B) FORM.—The State share of the cost shall be in cash.

(C) SOURCES.—The State may provide for the State share of the cost from State or local sources, or through donations from private entities.

(f) STATE ADMINISTRATIVE COSTS.—

(1) IN GENERAL.—A State may use not more than 5 percent of the funds made available through an allotment made under this title to pay for a portion, not to exceed 50 percent, of State administrative costs related to carrying out this title.

(2) WAIVER.—A State may apply to the Secretary for a waiver of paragraph (1). The Secretary may grant the waiver if the Secretary finds that unusual circumstances prevent the State from complying with paragraph (1). A State that receives such a waiver may use not more than 7.5 percent of the funds made available through the allotment to pay for the State administrative costs.

(g) MONITORING.—The Secretary shall monitor the activities of States that receive allotments under this title to ensure compliance with the requirements of this title, including compliance with the State plans.

(h) ENFORCEMENT.—If the Secretary determines that a State that has received an allotment under this title is not complying with a requirement of this title, the Secretary may—

(1) provide technical assistance to the State to improve the ability of the State to comply with the requirement;

(2) reduce, by not less than 5 percent, an allotment made to the State under this section, for the second determination of noncompliance;

(3) reduce, by not less than 25 percent, an allotment made to the State under this section, for the third determination of noncompliance; or

(4) revoke the eligibility of the State to receive allotments under this section, for the fourth or subsequent determination of noncompliance.

(i) TECHNICAL ASSISTANCE.—From the funds appropriated under section 105 for each fiscal year, the Secretary shall reserve not more than 1 percent of the funds to pay for the costs of providing technical assistance. The Secretary shall use the reserved funds to enter into contracts with eligible entities to provide technical assistance, to local collaboratives that receive grants under section 103, relating to the functions of the local collaboratives under this title.

SEC. 103. GRANTS TO LOCAL COLLABORATIVES.

(a) IN GENERAL.—A State board that receives an allotment under section 102 shall use the funds made available through the allotment, and the State contribution made under section 102(e)(2), to pay for the Federal and State shares of the cost of making grants, on a competitive basis, to local collaboratives to carry out young child assistance activities.

(b) USE OF FUNDS.—A local collaborative that receives a grant made under subsection (a)—

(1) shall use funds made available through the grant to provide, in a community, activities that consist of education and supportive services, such as—

(A) home visits for parents of young children;

(B) services provided through community-based family resource centers for such parents; and

(C) collaborative pre-school efforts that link parenting education for such parents to early childhood learning services for young children; and

(2) may use funds made available through the grant—

(A) to provide, in the community, activities that consist of—

(i) activities designed to strengthen the quality of child care for young children and expand the supply of high quality child care services for young children;

(ii) health care services for young children, including increasing the level of immunization for young children in the community, providing preventive health care screening and education, and expanding health care services in schools, child care facilities, clinics in public housing projects (as defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b))), and mobile dental and vision clinics;

(iii) services for children with disabilities who are young children; and

(iv) activities designed to assist schools in providing educational and other support services to young children, and parents of young children, in the community, to be carried out during extended hours when appropriate; and

(B) to pay for the salary and expenses of the administrator described in subsection (e)(4), in accordance with such regulations as the Secretary shall prescribe.

(c) MULTI-YEAR FUNDING.—In making grants under this section, a State board may make grants for grant periods of more than 1 year to local collaboratives with demonstrated success in carrying out young child assistance activities.

(d) LOCAL COLLABORATIVES.—To be eligible to receive a grant under this section for a community, a local collaborative shall demonstrate that the collaborative—

(1) is able to provide, through a coordinated effort, young child assistance activities to young children, and parents of young children, in the community; and

(2) includes—

(A) all public agencies primarily providing services to young children in the community;

(B) businesses in the community;

(C) representatives of the local government for the county or other political subdivision in which the community is located;

(D) parents of young children in the community;

(E) officers of community organizations serving low-income individuals, as defined by the Secretary, in the community;

(F) community-based organizations providing services to young children and the parents of young children, such as organizations providing child care, carrying out Head Start programs, or providing pre-kindergarten education, mental health, or family support services; and

(G) nonprofit organizations that serve the community and that are described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

(e) APPLICATION.—To be eligible to receive a grant under this section, a local collaborative shall submit an application to the State board at such time, in such manner, and containing such information as the State board may require. At a minimum, the application shall contain—

(1) sufficient information about the entity described in subsection (d)(2) to enable the State board to determine whether the entity complies with the requirements of such subsection; and

(2) a comprehensive plan for carrying out young child assistance activities in the community, including information indicating—

(A) the young child assistance activities available in the community, as of the date of submission of the plan, including information on efforts to coordinate the activities;

(B) the unmet needs of young children, and parents of young children, in the community for young child assistance activities;

(C) the manner in which funds made available through the grant will be used—

(i) to meet the needs, including expanding and strengthening the activities described in subparagraph (A) and establishing additional young child assistance activities; and

(ii) to improve results for young children in the community;

(D) how the local cooperative will use at least 60 percent of the funds made available through the grant to provide young child assistance activities to young children and parents described in subsection (f);

(E) the comprehensive methods that the collaborative will use to ensure that—

(i) each entity carrying out young child assistance activities through the collaborative will coordinate the activities with such activities carried out by other entities through the collaborative; and

(ii) the local collaborative will coordinate the activities of the local collaborative with—

(I) other services provided to young children, and the parents of young children, in the community; and

(II) the activities of other local collaboratives serving young children and families in the community, if any; and

(F) the manner in which the collaborative will, at such intervals as the State board may require, submit information to the State board to enable the State board to carry out monitoring under section 102(f), including the manner in which the collaborative will—

(i) evaluate the results achieved by the collaborative for young children and parents of young children through activities carried out through the grant;

(ii) evaluate how services can be more effectively delivered to young children and the parents of young children; and

(iii) prepare and submit to the State board annual reports describing the results;

(3) an assurance that the local collaborative will comply with the requirements of subparagraphs (D), (E), and (F) of paragraph (2), and subsection (g); and

(4) an assurance that the local collaborative will hire an administrator to oversee the provision of the activities described in paragraphs (1) and (2)(A) of subsection (b).

(f) DISTRIBUTION.—In making grants under this section, the State board shall ensure that at least 60 percent of the funds made available through each grant are used to provide the young child assistance activities to young children (and parents of young children) who reside in school districts in which half or more of the students receive free or reduced price lunches under the National School Lunch Act (42 U.S.C. 1751 et seq.).

(g) LOCAL SHARE.—

(1) IN GENERAL.—The local collaborative shall contribute a percentage (referred to in this subsection as the ''local share'') of the cost of carrying out the young child assistance activities.

(2) PERCENTAGE.—The Secretary shall by regulation specify the percentage referred to in paragraph (1).

(3) FORM.—The local share of the cost shall be in cash.

(4) SOURCE.—The local collaborative shall provide for the local share of the cost through donations from private entities.

(5) WAIVER.—The State board shall waive the requirement of paragraph (1) for poor rural and urban areas, as defined by the Secretary.

(h) MONITORING.—The State board shall monitor the activities of local collaboratives that receive grants under this title to ensure compliance with the requirements of this title.

SEC. 104. SUPPLEMENT NOT SUPPLANT.

Funds appropriated under this title shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services for young children.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $250,000,000 for fiscal year 1999, $500,000,000 for fiscal year 2000, $1,000,000,000 for each of fiscal years 2001 through 2003, and such sums as may be necessary for fiscal year 2004 and each subsequent fiscal year.

TITLE II—CHILD CARE FOR FAMILIES

SEC. 201. AMENDMENT TO CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.

The Child Care and Development Block Grant Act of 1990 is amended by inserting after section 658C (42 U.S.C. 9858b) the following:

''SEC. 658C–1. ESTABLISHMENT OF ZERO TO SIX PROGRAM.

''(a) IN GENERAL.—

''(1) PAYMENTS.—Subject to the amount appropriated under subsection (d), each State shall, for the purpose of providing child care assistance on behalf of children under 6 years of age, receive payments under this section in accordance with the formula described in section 658O.

''(2) INDIAN TRIBES.—The Secretary shall reserve 2 percent of the amount appropriated to carry out this section in each fiscal year for payments to Indian tribes and tribal organizations.

''(3) REMAINDER.—Any amount appropriated for a fiscal year under subsection (d), and remaining after the Secretary awards grants under paragraph (1) and after the reservation under paragraph (2), shall be used by the Secretary to make additional grants to States based on the formula under paragraph (1).

''(4) REALLOTMENT.—

''(A) IN GENERAL.—Any portion of the allotment under paragraph (1) to a State that the Secretary determines is not required by the State to carry out the activities described in subsection (b), in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

''(B) LIMITATIONS.—

''(i) REDUCTION.—The amount of any reallotment to which a State is entitled to under subparagraph (A) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out the activities described in subsection (b).

''(ii) REALLOTMENTS.—The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this paragraph.

''(C) INDIAN TRIBES OR TRIBAL ORGANIZATIONS.—Any portion of a grant made to an Indian tribe or tribal organization under paragraph (2) that the Secretary determines is not being used in a manner consistent with subsection (b) in the period for which the grant or contract is made available, shall be allotted by the Secretary to other tribes or organizations in accordance with their respective needs.

''(5) AVAILABILITY.—Amounts received by a State under a grant under this section shall be available for use by the State during the fiscal year for which the funds are provided and for the following 2 fiscal years.

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—Amounts received by a State under this section shall be used to provide child care assistance, on a sliding fee scale basis, on behalf of eligible children (as determined under paragraph (2)) to enable the parents of such children to secure high quality care for such children.

''(2) ELIGIBILITY.—To be eligible to receive child care assistance from a State under this section, a child shall—

''(A) be under 6 years of age;

''(B) be residing with at least one parent who is employed or enrolled in a school or training program or otherwise requires child care as a preventive or protective service (as determined under rules established by the Secretary); and

''(C) have a family income that is less than 85 percent of the State median income for a family of the size involved.

''(3) INFANT CARE SET-ASIDE.—A State shall set-aside 10 percent of the amounts received by the State under a grant under subsection (a)(1) for a fiscal year for the establishment of a program to establish innovations in infant and toddler care, including models for—

''(A) the development of family child care networks;

''(B) the training of child care providers for infant and toddler care; and

''(C) the support, renovation, and modernization of facilities used for child care programs serving infants.

''(4) POVERTY LINE.—As used in this subsection, the term ''poverty line'' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) that is applicable to a family of the size involved.

''(c) LEVELS OF ASSISTANCE.—

''(1) ADJUSTMENT OF RATES.—With respect to the levels of assistance provided by States on behalf of eligible children under this section, a State shall be permitted to adjust rates above the market rates to ensure that families have access to high quality infant and toddler care.

''(2) ADDITIONAL ASSISTANCE.—In administering this section, the Secretary shall encourage States to provide additional assistance on behalf of children for enriched infant and toddler services.

''(3) AMOUNT OF ASSISTANCE.—In providing assistance to eligible children under this section, a State shall ensure that an eligible child with a family income that is less than 100 percent of the poverty line for a family of the size involved is eligible to receive 100 percent of the amount of the assistance for which the child is eligible.

''(d) APPROPRIATION.—For grants under this section, there are appropriated—

''(1) $250,000,000 for fiscal year 1999;

''(2) $500,000,000 for fiscal year 2000;

''(3) $1,000,000,000 for each of fiscal years 2001 through 2003; and

''(4) such sums as may be necessary for fiscal year 2004 and each subsequent fiscal year.

''(e) REPORT.—Not later than 1 year after the date of enactment of this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning—

''(1) the appropriate child to staff ratios for infants and toddlers in child care settings, including child care centers and family child care homes; and

''(2) other best practices for infant and toddler care.

''(f) APPLICATION OF OTHER REQUIREMENTS.—

''(1) STATE PLAN.—The State, as part of the State plan submitted under section 658E(c), shall describe the activities that the State intends to carry out using amounts received under this section, including a description of the levels of assistance to be provided.

''(2) OTHER REQUIREMENTS.—Amounts provided to a State under this section shall be subject to the requirements and limitations of this subchapter except that section 658E(c)(3), 658F, 658G, 658J, and 658O shall not apply.''.

TITLE III—AMENDMENTS TO THE HEAD START ACT

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 639(a) of the Head Start Act (42 U.S.C. 9834(a)) is amended by inserting before the period at the end the following: '', $4,900,000,000 for fiscal year 1999, $5,500,000,000 for fiscal year 2000, $6,100,000,000 for fiscal year 2001, and such sums as may be necessary for fiscal year 2002''.

SEC. 302. ALLOTMENT OF FUNDS.

Section 640(a)(6) of the Head Start Act (42 U.S.C. 9835(a)(6)) is amended—

(1) by striking ''1997, and'' and inserting ''1997,''; and

(2) by inserting after ''1998,'' the following: ''6 percent for fiscal year 1999, 7 percent for fiscal year 2000, 8 percent for fiscal year 2001, and 10 percent for fiscal year 2002,''.

SEC. 303. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on October 1, 1998.

Mr. BOND. Mr. President. I rise today, along with my distinguished colleague from Massachusetts, Senator JOHN KERRY, to introduce the Early Childhood Development Act of 1997. Let me thank all who have worked so hard to develop this legislation.

The most important thing we can do to address the many social problems we face, is to recognize that the family is the centerpiece of our society and take steps to strengthen families and mobilize communities to support young children and their families.

This legislation follows up on recent scientific research showing that infant brain development occurs much more rapidly than previously thought, and that early, positive interaction with parents plays the critical role in brain development.

Not surprisingly parents have known instinctively for generations what science is just now figuring out: that reading to a baby, caressing and cuddling him, and helping him to have a wide range of good experiences will enhance his development. When children fail to receive love and nurturing at home when they do not receive quality child care, whether it is provided by centers, family child care homes, or relatives, they are far more likely to develop social and academic problems.

Yet parents today face burdens that were unimaginable a generation ago. Half of all marriages now end in divorce, and 28 percent of all children under the age of 18 live in a single-parent family. One in four infants and toddlers under the age of 3—nearly 3 million children—live in families with incomes below the Federal poverty level.

Many women, particularly in low- and moderate-income families, are essential in helping support their families financially and have entered the workforce in record numbers during the last generation. In many families, both parents work. Each day, an estimated 13 million children younger than 6—including 6 million babies and toddlers—spend some or all of their day being cared for by someone other than their parents. Children of working mothers are entering care as early as 6 weeks of age and spending 35 or more hours a week in some form of child care. Whether by choice or necessity, parents must try to find quality child care—which is not always available.

We are seeking, through this legislation, to provide families with support through early childhood education and more child care options. Our bill will support families—not bureaucracy—by building on local initiatives that are already working for families with infants and toddlers. We will help communities improve their services and supports to families with young children by expanding the thousands of successful efforts for families with children from birth to 6, such as those sponsored by the United Way and Boys and Girls Clubs as well as State initiatives such as Success by Six in Massachusetts and Vermont, the Parents as Teachers programs in Missouri and 47 other States, and the Early Childhood Initiative in Pennsylvania.

The Early Childhood Development Act will provide funds for early childhood education programs for all children that emphasize the primary role of parents and help give them the tools they need to be their children's best teachers. Parents are the key to a child's healthy development and as we all know, we will never solve our social problems unless we involve parents in the process and in their children's lives.

In addition, the bill will expand quality child care programs for families, especially for infants. And we will begin the Head Start Program earlier—when its impact could be much greater—at birth.

While Government cannot and should not become a replacement for parents and families, we can help families become stronger by providing support to help them give their children the encouragement, the love and the healthy environment they need to develop their social and intellectual capacities.

Our legislation balances the desire to provide support with the need to do so responsibly. I am proud that we have come together on a bipartisan basis to invest in programs that encourage family responsibility and obligation while helping families in need to reach those goals.

I am very optimistic that the spirit of bipartisanship will guide our consideration of this legislation and move it forward. Recent polls have shown that the overwhelming majority of Americans want early childhood development issues to be top priorities for our country. We must all work together to ensure that our most vulnerable citizens are given the care and protection they need and deserve.

Mr. President. I look forward to working with my colleagues to improve the quality of life for all children.

ADDITIONAL COSPONSORS

S. 19

At the request of Mr. DODD, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 19, a bill to provide funds for child care for low-income working families, and for other purposes.

S. 61

At the request of Mr. LOTT, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 356

At the request of Mr. GRAHAM, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 356, a bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the title XVIII and XIX of the Social Security Act to assure access to emergency medical services under group health plans, health insurance coverage, and the medicare and medicaid programs.

S. 358

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

S. 617

At the request of Mr. JOHNSON, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 617, a bill to amend the Federal Meat Inspection Act to require that imported meat, and meat food products containing imported meat, bear a label identifying the country of origin.

S. 644

At the request of Mr. D'AMATO, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from New Jersey [Mr. TORRICELLI] were added as cosponsors of S. 644, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to establish standards for relationships between group health plans and health insurance issuers with enrollees, health professionals, and providers.

S. 732

At the request of Mr. FAIRCLOTH, the names of the Senator from New York [Mr. D'AMATO] and the Senator from Colorado [Mr. ALLARD] were added as cosponsors of S. 732, a bill to require the Secretary of the Treasury to mint and issue coins in commemoration of the centennial anniversary of the first manned flight of Orville and Wilbur Wright in Kitty Hawk, North Carolina, on December 17, 1903.

S. 803

At the request of Mr. THURMOND, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 803, a bill to permit the transportation of passengers between United States ports by certain foreign-flag vessels and to encourage United States-flag vessels to participate in such transportation.

S. 943

At the request of Mr. SPECTER, the names of the Senator from Minnesota [Mr. WELLSTONE] and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 943, a bill to amend title 49, United States Code, to clarify the application of the Act popularly known as the ''Death on the High Seas Act'' to aviation accidents.

S. 983

At the request of Mr. DODD, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 983, a bill to prohibit the sale or other transfer of highly advanced weapons to any country in Latin America.

S. 990

At the request of Mr. FAIRCLOTH, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 990, a bill to amend the Public Health Service Act to establish the National Institute of Biomedical Imaging.

S. 1037

At the request of Mr. JEFFORDS, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 1037, a bill to amend the Internal Revenue Code of 1986 to establish incentives to increase the demand for and supply of quality child care, to provide incentives to States that improve the quality of child care, to expand clearing-house and electronic networks for the distribution of child care information, to improve the quality of chlid care provided through Federal facilities and programs, and for other purposes.

At the request of Mr. DODD, the names of the Senator from Wisconsin [Mr. KOHL] and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 1037, supra.

S. 1042

At the request of Mr. CRAIG, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1042, a bill to require country of origin labeling of perishable agricultural commodities imported into the United States and to establish penalties for violations of the labeling requirements.

S. 1084

At the request of Mr. INHOFE, the names of the Senator from Louisiana [Ms. LANDRIEU], the Senator from Mississippi [Mr. COCHRAN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Alabama [Mr. SESSIONS], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Ohio [Mr. DEWINE], the Senator from Utah [Mr. HATCH], the Senator from Alabama [Mr. SHELBY], the Senator from Wyoming [Mr. ENZI], the Senator from Wyoming [Mr. THOMAS], the Senator from Kansas [Mr. ROBERTS] and the Senator from Missouri [Mr. ASHCROFT] were added as cosponsors of S. 1084, a bill to establish a researh and monitoring program for the national ambient air quality standards for ozone and particulate matter and to reinstate the original standards under the Clean Air Act, and for other purposes.

S. 1096

At the request of Mr. KERREY, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Louisiana [Mr. BREAUX], the Senator from Indiana [Mr. LUGAR], the Senator from Michigan [Mr. ABRAHAM], the Senator from Connecticut [Mr. DODD], the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. BROWNBACK], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1189

At the request of Mr. SMITH, the names of the Senator from New Jersey [Mr. TORRICELLI] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 1189, a bill to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes.

S. 1204

At the request of Mr. COVERDELL, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Mississippi [Mr. LOTT] and the Senator from Nebraska [Mr. HAGEL] were added as cosponsors of S. 1204, a bill to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when government action is sufficently final to ripen certain Federal claims arising under the Constitution.

S. 1220

At the request of Mr. DODD, the names of the Senator from Vermont [Mr. LEAHY] and the Senator from Illinois [Mr. DURBIN] were added as cosponsors of S. 1220, a bill to provide a process for declassifying on an expedited basis certain documents relating to human rights abuses in Guatemala and Honduras.

S. 1237

At the request of Mr. ENZI, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1237, a bill to amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, and for other purposes.

S. 1260

At the request of Mr. GRAMM, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1260, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

SENATE RESOLUTION 96

At the request of Mr. CRAIG, the names of the Senator from Oregon [Mr. SMITH], the Senator from New Mexico [Mr. DOMENICI], the Senator from Minnesota [Mr. GRAMS] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Resolution 96, A resolution proclaiming the week of March 15 through March 21, 1998, as ''National Safe Place Week''.

SENATE CONCURRENT RESOLUTION 56—AUTHORIZING THE USE OF THE ROTUNDA OF THE CAPITOL

Mr. SPECTER submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 56

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the Capitol is authorized to be used on October 29, 1997, for a ceremony to honor Leslie Townes (Bob) Hope by conferring upon him the status of an honorary veteran of the Armed Forces of the United States. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

AMENDMENTS SUBMITTED

THE INTERMODAL TRANSPORTATION ACT OF 1997

DOMENICI (AND OTHERS) AMENDMENTS NOS. 1324–1327

(Ordered to lie on the table.)

Mr. DOMENICI (for himself, Mr. INOUYE, Mr. BINGAMAN, and Mr. JOHNSON) submitted four amendments intended to be proposed by them to the bill (S. 1173) to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for mass transit programs, and for other purposes; as follows:

AMENDMENT NO. 1324

On page 54, between lines 2 and 3, insert the following:

(d) ADDITIONAL FUNDING FOR INDIAN RESERVATION ROADS.—

(1) IN GENERAL.—Section 202(d) of title 23, United States Code, is amended—

(A) by striking ''(d) On'' and inserting the following:

''(d) INDIAN RESERVATION ROADS.—

''(1) IN GENERAL.—On'';

(B) in paragraph (1) (as so designated), by inserting '', and the amount set aside under paragraph (2),'' after ''appropriated''; and

(C) by adding at the end the following:

''(2) SET-ASIDE.—

''(A) IN GENERAL.—For each of fiscal years 1998 through 2003, before making an apportionment of funds under section 104(b), the Secretary shall set aside the amount specified for the fiscal year in subparagraph (B) for allocation in accordance with paragraph (1).

''(B) AMOUNTS.—The amounts referred to in subparagraph (A) are—

''(i) for fiscal year 1998, $25,000,000;

''(ii) for fiscal year 1999, $50,000,000;

''(iii) for fiscal year 2000, $75,000,000;

''(iv) for fiscal year 2001, $75,000,000;

''(v) for fiscal year 2002, $100,000,000; and

''(vi) for fiscal year 2003, $100,000,000.''.

(2) CONFORMING AMENDMENT.—Section 104(b) of title 23, United States Code (as amended by section 1102(a)), is amended in the matter preceding paragraph (1) by inserting ''and section 202(d)(2)'' after ''(f)''.

AMENDMENTS NO. 1325

At the appropriate place, insert the following:

SEC. . FUNDING FOR INDIAN RURAL TRANSIT PROGRAM.

Section 5311 of title 49, United States Code, is amended by adding at the end the following:

''(k) INDIAN RURAL TRANSIT PROGRAM.—

''(1) IN GENERAL.—Of amounts made available under section 5338(a) to carry out this section in each fiscal year, $10,000,000 shall be available for grants to Indian tribes (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))) in accordance with this section for transportation projects in areas other than urbanized areas.

''(2) FORMULA ALLOCATION.—Amounts made available under paragraph (1) shall be allocated among Indian tribes—

''(A) with respect to fiscal years 1998 and 1999, by the Administrator of the Federal Transit Administration; and

''(B) with respect to each fiscal year thereafter, in accordance with a formula, which shall be established by the Secretary, in consultation with Indian tribes, not later than October 1, 1999.''.

AMENDMENT NO. 1326

On page 54, between lines 2 and 3, insert the following:

(d) ALLOCATION FOR INTERTRIBAL TRANSPORTATION ASSOCIATION.—Section 202(d) of title 23, United States Code, is amended—

(1) by striking ''(d) On'' and inserting the following:

''(d) INDIAN RESERVATION ROADS.—

''(1) IN GENERAL.—On'';

(2) in paragraph (1) (as designated by subparagraph (A)), by striking ''the Secretary shall allocate'' and inserting ''after making the allocation authorized by paragraph (2), the Secretary shall allocate the remainder of''; and

(3) by adding at the end the following:

''(2) ALLOCATION FOR INTERTRIBAL TRANSPORTATION ASSOCIATION.—For each fiscal year, the Secretary shall allocate $300,000 of the sums described in paragraph (1) to the Intertribal Transportation Association.''.

AMENDMENT NO. 1327

On page 127, strike line 8 and insert the following: bridges that—

''(A) provides for the allocation of funds reserved under paragraph (2) in accordance with the priorities established by the Bureau of Indian Affairs through application of the National Bridge Inspection Standards; and

''(B) accords highest priority in funding to bridges with the greatest deficiency.

ALLARD AMENDMENT NO. 1328

(Ordered to lie on the table.)

Mr. ALLARD submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

Beginning on page 14, strike line 6 and all that follows through page 18, line 5, and insert the following:

''(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—

''(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, in the ratio that—

''(i) the total of all weighted non-attainment area and maintenance area populations in each State; bears to

''(ii) the total of all weighted non-attainment area and maintenance area populations in all States.

''(B) CALCULATION OF WEIGHTED NON-ATTAINMENT AREA AND MAINTENANCE AREA POPULATION.—For the purpose of subparagraph (A), the weighted nonattainment area and maintenance area population shall be calculated by multiplying the population of each area in a State that is a nonattainment area designated under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) or as a maintenance area for ozone, carbon monoxide, or PM-10 by a factor of—

''(i) 1.0 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area, as a transitional ozone nonattainment area (within the meaning of section 185A of the Clean Air Act (42 U.S.C. 7511e)), or as a maintenance area for any pollutant under part D of title I of the Clean Air Act (42 U.S.C. 7501 et seq.);

''(ii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area, a moderate carbon monoxide nonattainment area with a design value of 12.7 parts per million or less at the time of classification, or a moderate PM–10 nonattainment area, under the part;

''(iii) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area, or a moderate carbon monoxide nonattainment area with a design value greater than 12.7 parts per million at the time of classification, under that part;

''(iv) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area, a serious carbon monoxide nonattainment area, or a serious PM–10 nonattainment area, under that part; or

''(v) 1.4 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under that part.

''(C) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this paragraph, each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

''(D) DETERMINATIONS OF POPULATION.—In determining population figures for the purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Commerce.

''(E) DEFINITION OF PM–10.—In this paragraph, the term 'PM–10' means particulate matter with an aerodynamic diameter smaller than or equal to 10 microns.

TORRICELLI AMENDMENTS NOS. 1329–1330

(Ordered to lie on the table.)

Mr. TORRICELLI submitted two amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1329

On page 85, between lines 18 and 19, insert the following:

(d) EVALUATION OF PROCUREMENT PRACTICES AND PROJECT DELIVERY.—

(1) STUDY.—The Comptroller General shall conduct a study to assess—

(A) the impact that a utility company's failure to relocate its facilities in a timely manner has on the delivery and cost of Federal-aid highway and bridge projects;

(B) methods States use to mitigate delays described in subparagraph (A), including the use of the courts to compel utility cooperation;

(C) the prevalence and use of—

(i) incentives to utility companies for early completion of utility relocations on Federal-aid transportation project sites; and

(ii) penalties assessed on utility companies for utility relocation delays on such projects;

(D) the extent to which States have used available technologies, such as subsurface utility engineering, early in the design of Federal-aid highway and bridge projects so as to eliminate or reduce the need for or delays due to utility relocations; and

(E)(i) whether individual States compensate transportation contractors for business costs incurred by the contractors when Federal-aid highway and bridge projects under contract to the contractors are delayed by delays caused by utility companies in utility relocations; and

(ii) methods used by States in making any such compensation.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study, including any recommendations that the Comptroller General determines to be appropriate as a result of the study.

AMENDMENT NO. 1330

On page 85, between lines 18 and 19, insert the following:

(d) EVALUATION OF PROCUREMENT PRACTICES AND PROJECT DELIVERY.—

(1) STUDY.—The Comptroller General shall conduct a study to assess—

(A) the impact that a utility company's failure to relocate its facilities in a timely manner has on the delivery and cost of Federal-aid highway and bridge projects;

(B) methods States use to mitigate delays described in subparagraph (A), including the use of the courts to compel utility cooperation;

(C) the prevalence and use of—

(i) incentives to utility companies for early completion of utility relocations on Federal-aid transportation project sites; and

(ii) penalties assessed on utility companies for utility relocation delays on such projects;

(D) the extent to which States have used available technologies, such as subsurface utility engineering, early in the design of Federal-aid highway and bridge projects so as to eliminate or reduce the need for or delays due to utility relocations; and

(E)(i) whether individual States compensate transportation contractors for business costs incurred by the contractors when Federal-aid highway and bridge projects under contract to the contractors are delayed by delays caused by utility companies in utility relocations; and

(ii) methods used by States in making any such compensation.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study, including any recommendations that the

Comptroller General determines to be appropriate as a result of the study.

McCAIN AMENDMENTS NOS. 1331–1332

(Ordered to lie on the table.)

Mr. McCAIN submitted two amendments intended to be proposed by him to amendment No. 1319 proposed by Mr. ROTH to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1331

In the matter added by Amendment No. 1319, strike Sections X002(a)(1)(C), (a)(2), (a)(3), (a)(4), (a)(5), and (c), and renumber the sections accordingly.

AMENDMENT NO. 1332

Strike Sections X002(a)(1)(C), (a)(2), (a)(3), (a)(4), (a)(5), and (c), and renumber the sections accordingly.

McCAIN AMENDMENT NO. 1333

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

At the appropriate place in the bill, add the following new section:

''SEC. . Notwithstanding any other provision of law, existing provisions in the Internal Revenue Code of 1986 relating to ethanol fuels may not be extended beyond the periods specified in the Code, as in effect prior to the date of enactment of this Act.''

McCAIN AMENDMENT NO. 1334

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to amendment No. 1319 proposed by Mr. ROTH to the bill, S. 1173, supra; as follows:

At the end of the amendment, add the following new section:

''SEC. X008. Notwithstanding any other provision of law, existing provisions in the Internal Revenue Code of 1986 relating to ethanol fuels may not be extended beyond the periods specified in the Code, as in effect prior to the date of enactment of this Act.''

SNOWE AMENDMENTS NOS. 1335–1336

(Ordered to lie on the table.)

Ms. SNOWE submitted two amendments intended to be proposed by her to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1335

On page 176, strike lines 3 through 5 and insert the following:

(a) IN GENERAL.—

(1) PROGRAM.—Section 129(c) of title 23, United States Code, is amended—

(A) by inserting ''in accordance with paragraph (2) and sections 103, 133, and 149,'' after ''toll or free.'';

(B) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F), respectively, and indenting appropriately;

(C) by striking ''(e) Notwithstanding'' and inserting the following:

''(c) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

''(1) IN GENERAL.—Notwithstanding'';

(D) in subparagraph (C) (as redesignated by subparagraph (B)), by inserting ''or operated'' before the period at the end;

(E) in the first sentence of subparagraph (F) (as redesignated by subparagraph (B)), by striking ''sold, leased, or'' and inserting ''sold or''; and

(F) by adding at the end the following:

''(2) PROGRAM.—

''(A) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with paragraph (1).

''(B) FEDERAL SHARE.—The Federal share of the cost of construction of a ferry boat or ferry terminal facility using funds made available under subparagraph (C) shall be 80 percent.

''(C) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(i) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) for obligation at the discretion of the Secretary in carrying out this paragraph $18,000,000 for each of fiscal years 1998 through 2000.

''(ii) AVAILABILITY.—Amounts made available under this subparagraph shall remain available until expended.''.

(2) STUDY.—

(A) IN GENERAL.—The Secretary shall conduct a study of ferry transportation in the United States and the possessions of the United States—

(i) to identify ferry operations in existence as of the date of the study, including—

(I) the locations and routes served; and

(II) the source and amount, if any, of funds derived from Federal, State, or local government sources that support ferry operations; and

(ii) to identify potential domestic ferry routes in the United States and possessions of the United States and to develop information on the routes.

(B) REPORT.—The Secretary shall submit a report on the results of the study under subparagraph (A) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

AMENDMENT NO. 1336

On page 309, between lines 3 and 4, insert the following:

SEC. 18___. FUNDING TRANSFER.

The Intermodal Surface Transportation Efficiency Act of 1991 is amended—

(1) in the table contained in section 1103(b) (105 Stat. 2027), in item 9, by striking ''32.1'' and inserting ''25.1''; and

(2) in the table contained in section 1104(b) (105 Stat. 2029)—

(A) in item 27, by striking ''10.5'' and inserting ''12.5''; and

(B) in item 44, by striking ''10.0'' and inserting ''15.0''.

At the appropriate place in subtitle D of title I, insert the following:

SEC. 14___. YOUNGER DRIVER SAFETY DEVELOPMENT DEMONSTRATION PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means—

(A) a State or unit of local government; or

(B) a nonprofit organization.

(2) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation by reason of section 501(a) of such Code.

(3) YOUNGER DRIVER.—The term ''younger driver'' means a driver of a motor vehicle who has attained the age of 15, but has not attained the age of 21.

(b) GENERAL AUTHORITY.—The Secretary shall conduct a demonstration program to, with respect to younger drivers—

(1) reduce traffic fatalities and injuries among those drivers; and

(2) improve the driving performance of those drivers.

(c) GRANTS.—An eligible entity may submit an application, in such form and manner as the Secretary may prescribe for a grant award to conduct a demonstration project under the demonstration program under this section.

(d) DEMONSTRATION PROJECT.—A demonstration project conducted under this section—

(1) shall be designed to carry out the purposes specified in subsection (b); and

(2)(A) may include the development and implementation of a comprehensive approach to—

(i) the licensing of younger drivers (including graduated licensing); or

(ii) the education of younger drivers; or

(B) may address specific driving behaviors (including seat belt use, or impaired driving or any other risky driving behavior).

(e) REPORTS.—

(1) IN GENERAL.—Upon completion of a demonstration project under this section, the grant recipient shall submit to the Secretary a report that includes the findings of the grant recipient with respect to results of the demonstration project, together with any recommendations of the grant recipient relating to those results.

(2) DISTRIBUTION OF INFORMATION.—The Secretary shall ensure that, to the maximum extent practicable, the information contained in the reports submitted under this subsection is distributed to appropriate entities.

(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section, $500,000 for each of fiscal years 1998 through 2000.

(2) AVAILABILITY OF FUNDS.—Funds made available under this subsection shall remain available until expended.

(3) CONTRACT AUTHORITY.—Subject to paragraph (2), funds authorized under this subsection shall be available for obligation in the same manner as if those funds were apportioned under chapter 1 of title 23, United States Code.

SEC. 14___. AGGRESSIVE DRIVER COUNTERMEASURE DEVELOPMENT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) LARGE METROPOLITAN AREA.—The term ''large metropolitan area'' means a metropolitan area that is identified by the Administrator of the Federal Highway Administration as being 1 of the 27 metropolitan areas in the United States with the greatest degree of traffic congestion.

(2) METROPOLITAN AREA.—The term ''metropolitan area'' means an area that contains a core population and surrounding communities that have a significant degree of economic and social integration with that core population (as determined by the Secretary).

(3) SMALL METROPOLITAN AREA.—The term ''small metropolitan area'' means a metropolitan area with a population of—

(A) not less than 400,000 individuals; and

(B) not more than 1,000,000 individuals.

(b) GENERAL AUTHORITY.—

(1) IN GENERAL.—The Secretary shall carry out a demonstration program to conduct—

(A) 1 demonstration project in a large metropolitan area; and

(B) 1 demonstration project in a small metropolitan area.

(2) DEMONSTRATION PROJECTS.—Each demonstration project described in paragraph (1)—

(A) shall identify effective and innovative enforcement and education techniques to reduce aggressive driving; and

(B) may—

(i) investigate the use of new law enforcement technologies to reduce aggressive driving;

(ii) study the needs of prosecutors and other elements of the judicial system in addressing the problem of aggressive driving; and

(iii) study the need for proposed legislation.

(c) GRANTS.—

(1) IN GENERAL.—A State may submit an application, in such form and manner as the Secretary may prescribe, for a grant award to conduct a demonstration project under the demonstration program under this section.

(2) GEOGRAPHIC DIVERSITY.—In awarding grants under this subsection, the Secretary shall provide for geographic diversity with respect to the metropolitan areas selected, to take into account variations in traffic patterns and law enforcement practices.

(3) GRANT AGREEMENTS.—As a condition to receiving a grant under this section, each State that is selected to be a grant recipient under this section shall be required to meet the requirements of a grant agreement that the Secretary shall offer to enter into with the appropriate official of the State. The grant agreement shall specify that the grant recipient shall submit to the Secretary such reports on the demonstration project conducted by the grant recipient as the Secretary determines to be necessary.

(d) DEMONSTRATION PROJECT.—A demonstration project conducted under this section shall be designed to carry out 1 or more of the activities described in subsection (b).

(e) DISTRIBUTION OF INFORMATION.—

(1) EVALUATION AND REPORT.—Upon completion of the demonstration projects conducted under the demonstration program under this section, the Secretary shall—

(A) conduct an evaluation of the results of those projects; and

(B) prepare a report that contains the findings of the evaluation, including such recommendations concerning addressing the incidence and causes of aggressive driving as the Secretary determines to be appropriate.

(2) DISTRIBUTION.—

(A) IN GENERAL.—The Secretary shall ensure, to the maximum extent practicable, that the information contained in the reports submitted under this subsection is distributed to appropriate entities, including law enforcement agencies.

(B) PUBLIC INFORMATION AND EDUCATION CAMPAIGN.—In conjunction with carrying out the demonstration program under this section, the Secretary shall develop a comprehensive public information and education campaign to address aggressive driving behavior. The program shall include print, radio, and television public service announcements that highlight law enforcement activities and public participation in addressing the problem of aggressive driving behavior.

(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section, $500,000 for each of fiscal years 1998 through 1999 (of which not more than $165,000 may be used by the Secretary to carry out subsection (e)) and $500,000 for fiscal year 2000 (of which not more than $200,000 may be used to carry out subsection (e)).

(2) AVAILABILITY OF FUNDS.—Funds made available under this subsection shall remain available until expended.

(3) CONTRACT AUTHORITY.—Subject to paragraphs (1) and (2), funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

ABRAHAM (AND LEVIN) AMENDMENT NO. 1338

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by them to the bill, S. 1173, supra; as follows:

On page 139, line 22, insert ''or a unit of local government in the State'' after ''State''.

MURKOWSKI (AND STEVENS) AMENDMENTS NOS. 1339–1343

(Ordered to lie on the table.)

Mr. MURKOWSKI (for himself and Mr. STEVENS) submitted five amendments intended to be proposed by them to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1339

On page 176, strike lines 3 through 5 and insert the following:

(a) IN GENERAL.—Section 129(c) of title 23, United States Code, is amended—

(1) by striking ''may'' and inserting ''shall'';

(2) by inserting ''in accordance with sections 103, 133, and 149,'' after ''toll or free,'';

(3) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F), respectively, and indenting appropriately;

(4) by striking ''(c) Notwithstanding'' and inserting the following:

''(c) CONSTRUCTION OF FERRY BOATS AND TERMINAL FACILITIES.—

''(1) IN GENERAL.—Notwithstanding''; and

(5) by adding at the end the following:

''(2) FEDERAL SHARE.—The Federal share of the cost of construction of a ferry boat or terminal facility using funds made available under paragraph (3) shall be 80 percent.

''(3) FUNDING.—

''(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account), for obligation at the discretion of the Secretary in carrying out this subsection $18,000,000 for each of fiscal years 1998 through 2003.

''(B) AVAILABILITY.—Funds made available under subparagraph (A) shall remain available until expended.

''(4) APPLICABILITY OF OTHER PROVISIONS OF THIS CHAPTER.—All provisions of this chapter that are applicable to the National Highway System, other than provisions relating to the apportionment formula and Federal share, shall apply to funds made available under paragraph (3), except as determined by the Secretary to be inconsistent with this subsection.''.

AMENDMENT NO. 1340

At the end of subtitle A of title I, add the following:

SEC. 11 . NATIONAL DEFENSE HIGHWAYS OUTSIDE THE UNITED STATES.

Section 311 of title 23, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Funds''; and

(2) by adding at the end the following:

''(b) NATIONAL DEFENSE HIGHWAYS OUTSIDE THE UNITED STATES.—

''(1) RECONSTRUCTION PROJECTS.—If the Secretary determines, after consultation with the Secretary of Defense, that a highway, or a portion of a highway, located outside the United States is important to the national defense, the Secretary may carry out a project for reconstruction of the highway or portion of highway.

''(2) FUNDING.—

''(A) IN GENERAL.—From funds made available to carry out this title that are associated with the Interstate System, the Secretary may make available to carry out this subsection not to exceed $16,000,000 for each of fiscal years 1998 through 2003.

''(B) AVAILABILITY.—Funds made available under subparagraph (A) shall remain available until expended.''.

AMENDMENT NO. 1341

On page 269, line 2, insert ''(a) IN GENERAL.—'' before ''Section''.

On page 278, between lines 14 and 15, insert the following:

(b) REDUNDANT METROPOLITAN TRANSPORTATION PLANNING REQUIREMENTS.—

(1) FINDING.—Congress finds that the major investment study requirements under section 450.318 of title 23, Code of Federal Regulations, are redundant to the planning and project development processes required under other titles 23 and 49, United States Code.

(2) STREAMLINING.—

(A) IN GENERAL.—The Secretary shall streamline the Federal transportation planning and NEPA decision process requirements for all transportation improvements supported with Federal surface transportation funds or requiring Federal approvals, with the objective of reducing the number of documents required and better integrating required analyses and findings wherever possible.

(C) REQUIREMENTS.—The Secretary shall amend regulations as appropriate and develop procedures to—

(i) eliminate, effective as of the date of enactment of this section, the major investment study under section 450.318 of title 23, Code of Federal Regulations, as a stand-alone requirement independent of other transportation planning requirements;

(ii) eliminate stand-alone report requirements wherever possible;

(iii) prevent duplication by integrating planning and transportation NEPA processes by drawing on the products of the planning process in the completion of all environmental and other project development analyses;

(iv) reduce project development time by achieving to the maximum extent practical a single public interest decision process for Federal environmental analyses and clearances; and

(v) expedite and support all phases of decisionmaking by encouraging and facilitating the early involvement of metropolitan planning organizations, State departments of transportation, transit operators, and Federal and State environmental resource and permit agencies throughout the decisionmaking process.

AMENDMENT NO. 1342

On page 191, line 12, strike the semicolon at the end and insert '', except that if the State has a higher Federal share payable under section 120(b) of title 23, United States Code, the State shall be required to contribute only an amount commensurate with the higher Federal share;''.

AMENDMENT NO. 1343

On page 52, line 10, strike ''reservations.'' and insert ''reservations, and in the case of Indian reservation roads and transit facilities, to pay for the costs of maintenance of the Indian reservation roads and transit facilities.''.

HATCH (AND BENNETT) AMENDMENT NO. 1344

(Ordered to lie on the table.)

Mr. HATCH (for himself and Mr. BENNETT) submitted an amendment intended to be proposed by them to the bill, S. 1173, supra; as follows:

On page 144, strike line 5 and insert the following: the'' and inserting ''The''.

SEC. 1206A. WAIVER FOR HIGH-ALTITUDE, EXTERNAL-LOAD HOIST RESCUES.

The Secretary, acting through the Administrator of the Federal Aviation Administration, shall waive any regulation of the Federal Aviation Administration that prohibits the use of an Agusta A 109K2 helicopter by an entity that is not a public service agency (as that term is defined by the Administrator) to execute a high-altitude, external-load rescue with such a helicopter if the Secretary, acting through the Administrator, determines that the entity—

(1) has sufficient expertise to execute such a rescue; and

(2) is implementing sufficient safety measures.

BENNETT AMENDMENTS NOS. 1345–1346

(Ordered to lie on the table.)

Mr. BENNETT submitted two amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1345

At the end of subtitle A of title I, add the following:

SEC. 11 . TRANSPORTATION ASSISTANCE FOR OLYMPIC CITIES.

(a) PURPOSE.—The purpose of this section is to authorize the provision of assistance for, and support of, State and local efforts concerning surface transportation issues necessary to obtain the national recognition and economic benefits of participation in the International Olympic movement by hosting international quadrennial Olympic events in the United States.

(b) PRIORITY FOR TRANSPORTATION PROJECTS RELATING TO OLYMPIC EVENTS.—Notwithstanding any other provision of law, from funds available to carry out section 104(k) of title 23, United States Code, the Secretary may give priority to funding for a transportation project relating to an international quadrennial Olympic event if—

(1) the project meets the extraordinary needs associated with an international quadrennial Olympic event; and

(2) the project is otherwise eligible for assistance under section 104(k) of that title.

(c) TRANSPORTATION PLANNING ACTIVITIES.—The Secretary may participate in—

(1) planning activities of States and metropolitan planning organizations and transportation projects relating to an international quadrennial Olympic event under sections 134 and 135 of title 23, United States Code; and

(2) developing intermodal transportation plans necessary for the projects in coordination with State and local transportation agencies.

(d) USE OF ADMINISTRATIVE EXPENSES.—From funds deducted under section 104(a) of title 23, United States Code, the Secretary may provide assistance for the development of an Olympics transportation management plan in cooperation with an Olympic Organizing Committee responsible for hosting, and State and local communities affected by, an international quadrennial Olympic event.

(e) TRANSPORTATION PROJECTS RELATING TO OLYMPIC EVENTS.—

(1) IN GENERAL.—The Secretary may provide assistance, including planning, capital, and operating assistance, to States and local governments in carrying out transportation projects relating to an international quadrennial Olympic event.

(2) FEDERAL SHARE.—The Federal share of the cost of a project assisted under this subsection shall not exceed 80 percent.

(f) ELIGIBLE GOVERNMENTS.—A State or local government shall be eligible to receive assistance under this section only if the government is hosting a venue that is part of an international quadrennial Olympics that is officially selected by the International Olympic Committee.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section such suns as are necessary for each of fiscal years 1998 through 2003.

AMENDMENT NO. 1346

At the appropriate place, insert the following:

SEC. . TRANSPORTATION ASSISTANCE FOR OLYMPIC CITIES.

(A) PURPOSE.—The purpose of this section is to provide assistance and support to State and local efforts on surface and aviation-related transportation issues necessary to obtain the national recognition and economic benefits of participation in the International Olympic movement by hosting international quadrennial Olympic events in the United States.

(b) PRIORITY FOR TRANSPORTATION PROJECTS RELATED TO OLYMPIC EVENTS.—Notwithstanding any other provision of law, the Secretary of Transportation shall give priority to funding for a mass transportation project related to an Olympic event from the Mass Transit Account of the Highway Trust Fund available to carry out 1 or more of sections 5307, 5309, and 5326 of title 49, United States Code, if the project meets the extraordinary needs associated with an international quadrennial Olympic event and if the project is otherwise eligible for assistance under the section at issue. For purposes of determining the non-Federal share of a project funded under this subsection, highway and transit projects shall be considered to be a program of projects.

(c) TRANSPORTATION PLANNING ACTIVITIES.—The Secretary may participate in planning activities of States and Metropolitan planning organizations and sponsors of transportation projects related to an international quadrennial Olympic event under sections 5303 and 5305a of title 49, United States Code, and in developing intermodal transportation plans necessary for such projects in coordination with State and local transportation agencies.

(d) USE OF ADMINISTRATIVE EXPENSES.—The Secretary may provide assistance from funds deducted under section 104(a) of title 23, United States Code, for the development of an Olympics transportation management plan in cooperation with an Olympic Organizing Committee responsible for hosting, and State and local communities affected by, an international quadrennial Olympic event.

(e) TRANSPORTATION PROJECTS RELATED TO OLYMPIC EVENTS.—

(1) GENERAL AUTHORITY.—The Secretary may provide assistance to States and local governments in carrying out transportation projects related to an international quadrennial Olympic event. Such assistance may include planning, capital, and operating assistance.

(2) FEDERAL SHARE.—The Federal share of the costs of projects assisted under this subsection shall not exceed 80 percent. For purposes of determining the non-Federal share of a project assisted under this subsection, highway and transit projects shall be considered to be a program of projects.

(f) ELIGIBLE GOVERNMENTS.—A State or local government is eligible to receive assistance under this section only if it is housing a venue that is part of an international quadrennial Olympics that is officially selected by the International Olympic Committee.

(g) AIRPORT DEVELOPMENT PROJECTS.—

(1) AIRPORT DEVELOPMENT DEFINED.—Section 47102(3) of title 49, United States Code, is amended by adding at the end the following:

''(H) Developing, in coordination with State and local transportation agencies, intermodal transportation plans necessary for Olympic-related projects at an airport.''.

(2) DISCRETIONARY GRANTS.—Section 47115(d) of title 49, United States Code, is amended—

(A) by striking ''and'' at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting ''; and''; and

(C) by adding at the end the following:

''(7) the need for the project in order to meet the unique demands of hosting international quadrennial Olympic events.''.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 1998 through 2003.

THOMAS AMENDMENTS NOS. 1347–1350

(Ordered to lie on the table.)

Mr. THOMAS submitted four amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1347

At the appropriate place, insert the following:

SEC. . MINIMUM GUARANTEE OF TRANSIT PROGRAM FUNDS.

Section 5338 of title 49, United States Code, is amended by adding at the end the following:

''(o) MINIMUM GUARANTEE OF TRANSIT PROGRAM FUNDS.

''(1) SET-ASIDE REQUIRED.—For each fiscal year beginning after September 30, 1997, after providing for any allocation or set-asides under subsection (g) or (h), but before completing distribution of other amounts made available or appropriated under subsections (a) and (b), the Secretary shall set aside, and shall make available to each State, in addition to amounts otherwise made available to the State (or to its political subdivisions) to carry out sections 5307, 5309, 5310, and 5311, the amount calculated under paragraph (2)(B).

''(2) CALCULATION.—

''(A) DEFINITION OF MINIMUM GUARANTEE THRESHOLD AMOUNT.—In this subsection, the term 'minimum guarantee threshold amount' means, with respect to a State for a fiscal year, the amount equal to the product of—

''(i) total amount made available to all States and political subdivisions under sections 5307, 5309, 5310, and 5311 for that fiscal year; multiplied by

''(ii) 70 percent of the State's percentage contribution to the estimated tax payments attributable to highway users in all States and allocated to the Mass Transit Account under section 9503(e) of the Internal Revenue Code of 1986 in the latest fiscal year for which data are available.

''(B) CALCULATION.—Subject to subparagraph (C) and any other limitations set forth in this subsection, the amount required to be provided to a State under this subsection is the amount, if it is a positive number, that, if added to the total amount made available to the State (and its political subdivisions) under sections 5307, 5309, 5310, and 5311 for

that fiscal year, is equal to the minimum guarantee threshold amount.

''(C) LIMITATION.—The maximum amount made available to a State under this subsection shall not exceed $12,500,000.

''(3) SOURCE OF FUNDS.—

''(A) IN GENERAL.—Amounts required to be set aside and made available to States under this subsection—

''(i) may be obtained from any amounts under section 5309 that are made available to the Secretary for distribution at the Secretary's discretion; or

''(ii) if not, shall be obtained by proportionately reducing amounts which would otherwise be made available under subsections (a) and (b), for sections 5307, 5309, 5310, and 5311, to those States and political subdivisions for which the amount made available under sections 5307, 5309, 5310, and 5311 to the State (including political subdivisions thereof) is greater than the product of—

''(I) total amount made available to all States and political subdivisions under sections 5307, 5309, 5310, and 5311, in that fiscal year; multiplied by

''(II) the State's percentage contribution to the estimated tax payments attributable to highway users in all States and allocated to the Mass Transit Account under section 9503(e) of the Internal Revenue Code of 1986 in the latest fiscal year for which data are available.

''(B) PROPORTIONATE REDUCTIONS.—The Secretary also shall apply reductions under subparagraph (A)(ii) proportionately to amounts made available from the Mass Transit Account and to amounts made available from other sources.

''(C) OTHER REDUCTIONS.—

''(i) IN GENERAL.—Reductions otherwise required by subparagraph (A) may be taken against the amounts that otherwise would be made available to any State or political subdivision thereof, only to the extent that making those reductions would not reduce the total amount made available to the State and its political subdivisions under sections 5307, 5309, 5310, and 5311 to less than the lesser of—

''(I) 90 percent of the total of those amounts made available to the State and its political subdivisions in fiscal year 1997; or

''(II) the minimum guarantee threshold amount for the State for the fiscal year at issue.

''(ii) PROPORTIONATE REDUCTIONS.—In the event of the applicability of clause (i), the Secretary shall obtain the remainder of the amounts required to be made available to States under the minimum guarantee required by this subsection proportionately from those States, including political subdivisions, to which subparagraph (A) applies, and to which clause (i) of this subparagraph does not apply.

''(4) ATTRIBUTION OF AMOUNTS.—For the purposes of calculations under this subsection, with respect to attributing to individual States any amounts made available to political subdivisions that are multi-State entities, the Secretary shall attribute those amounts to individual States, based on such criteria as the Secretary may adopt by rule, except that, for purposes of calculations for fiscal year 1998 only, the Secretary may attribute those amounts to individual States before adopting a rule.

''(5) USE OF ADDITIONAL AMOUNTS.—Amounts made available to a State under this subsection may be used for any purpose eligible for assistance under this chapter and up to 50 percent of the amount made available to a State under this subsection for any fiscal year may be used by the State for any project or program eligible for assistance under title 23.

''(6) TREATMENT OF CERTAIN AMOUNTS.—For purposes of sections 5323(a)(1)(D) and 5333(b), amounts made available to a State under this subsection that are, in turn, awarded by the State to subgrantees, shall be treated as if apportioned—

''(A) under section 5311, if the subgrantee is not serving an urbanized area; and

''(B) directly to the subgrantee under section 5307, if the subgrantee serves an urbanized area.''.

AMENDMENT NO. 1348

Strike Section 1125 of the Committee Amendment and insert in lieu thereof the following new section:

SEC. 1125. AMENDMENT TO 23 U.S.C. § 302.

Section 302 of Title 23 United States Code is amended to read:

§ 302. State highway department

(a) Any State desiring to avail itself of the provisions of this title shall have a State highway department which shall have adequate powers, and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by this title. Among other things, the organization shall include a secondary road unit. In meeting the provisions of this subsection, a State shall rely on entities in the private enterprise system—including but not limited to commercial firms in architecture, engineering, construction, surveying, mapping, laboratory testing, and information technology—to provide such goods and services as are reasonably and expeditiously available through ordinary business channels, and shall not duplicate or compete with entities in the private enterprise system.

(b) The Secretary shall promulgate regulations and procedures to inform each State and any other agency that administers this Act and each recipient of a grant or other Federal assistance of the requirements of subsection (a).

(c) The State highway department may arrange with a county or group of counties for competent highway engineering personnel suitably organized and equipped to the satisfaction of the State highway department, to perform inherently governmental functions on a county-unit or group-unit basis, for the construction of projects on the Federal-aid secondary system, financed with secondary funds, and for the maintenance thereof.

AMENDMENT NO. 1349

At the appropriate place in the amendment, insert the following new section and renumber any remaining sections accordingly:

''SEC. . WASTE TIRE RECYCLING RESEARCH PROGRAM.

(a) RESEARCH GRANTS AND CONTRACTS.—The Administrator may use funds to make a grant or enter into a contract or cooperative agreement with a person to conduct research and development on—

(1) waste tire/waste oil processing and recycling technologies; or

(2) the use, performance, and marketability of products made from carbonous materials and oil products produced from waste tire processing.

(b) RESEARCH PROGRAM.—The Administrator shall conduct a program of research to determine—

(1) the public health and environmental risks associated with the production and use of asphalt pavement containing tire-derived carbonous asphalt modifiers;

(2) the performance of asphalt pavement containing tire-derived carbonous asphalt modifiers under various climate and use conditions; and

(3) the degree to which asphalt pavement containing tire-derived carbonous asphalt modifiers can be recycled.

(c) DATE OF COMPLETION.—The Administrator shall complete the research program under subsection (b) of this section not later than 3 years after the enactment of this Act.

AMENDMENT NO. 1350

On page 54, between lines 2 and 3, insert the following:

(d) ADDITIONAL FUNDING FOR PARK ROADS AND PARKWAYS.—

(1) IN GENERAL.—Section 202(c) of title 23, United States Code, is amended—

(A) by striking ''(c) On'' and inserting the following:

''(c) PARK ROADS AND PARKWAYS.—

''(1) IN GENERAL.—On'';

(B) in paragraph (1) (as so designated), by inserting '', and the amount set aside under paragraph (2),'' after ''appropriated''; and

(C) by adding at the end the following:

''(2) SET-ASIDE.—For each of fiscal years 1998 through 2003, the Secretary shall set aside from funds deducted under 104(a) $50,000,000 for allocation in accordance with paragraph (1).''.

(2) CONFORMING AMENDMENT.—Section 104(b) of title 23, United States Code (as amended by section 1102(a)), is amended in the matter preceding paragraph (1) by inserting ''and section 202(c)(2)'' after ''(f)''.

HUTCHISON AMENDMENTS NO. 1351–1354

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted four amendments intended to be proposed by her to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1351

On page 99, strike lines 22 through 25 and insert the following:

''programs;

''(J) other factors to promote transport efficiency and safety, as determined by the Secretary; and

''(K) the ratio that the annual tonnage of commercial vehicle traffic at the border stations or ports of entry in each State bears to the annual tonnage of commercial vehicle traffic at the border stations or ports of entry of all States.''

AMENDMENT NO. 1352

On page 397, strike line 16 and insert the following:

''scribed in section 529.

''(3) CONTINUANCE OF PARTNERSHIP AGREEMENT.—Under the program, the Secretary shall continue in effect, at a funding level of $1,300,000 for each of fiscal years 1998, 1998, and 2000, a public-private, multimodal partnership agreement entered into by the Secretary before the date of enactment of this chapter providing for the integration of the freeway arterial, transit, railroad, and emergency management components of surface transportation management system.''

AMENDMENT NO. 1353

On page 302, strike line 5 and insert the following:

(g) TOLL ROADS, BRIDGES, TUNNELS, AND FERRIES.—Section 129(a)(3) of title 23, United States Code, is amended—

(1) by striking ''Before the Secretary'' and inserting the following:

''(A) IN GENERAL.—Before the Secretary'';

(2) by striking ''If the State'' and inserting the following:

''(B) Exceptions.—

''(i) IN GENERAL.—If the State''; and

(3) by adding at the end the following:

''(ii) TOLL FACILITIES FINANCED BY LOANS.—In the case of a toll facility owned and operated by a local government that is financed

by a loan to the local government under paragraph (7), if the local government certifies annually that the tolled facility is being adequately maintained, the limitations on the use of any toll revenues under subparagraph (A) shall not apply.''.

(h) RAILWAY-HIGHWAY CROSSINGS.—Section 130(f)

AMENDMENT NO. 1354

At the end of the bill, add the following:

TITLE —AMTRAK REFORM AND ACCOUNTABILITY

SEC. 01. SHORT TITLE; TABLE OF SECTIONS.

(a) SHORT TITLE.—This title may be cited as the ''Amtrak Reform and Accountability Act of 1997''.

(b) TABLE OF SECTIONS.—The table of sections for this title is as follows:

Sec. 01. Short title; table of sections.
Sec. 02. Findings.

Subtitle A—Reforms

PART 1—OPERATIONAL REFORMS

Sec. 101. Basic system.
Sec. 102. Mail, express, and auto-ferry transportation.
Sec. 103. Route and service criteria.
Sec. 104. Additional qualifying routes.
Sec. 105. Transportation requested by States, authorities, and other persons.
Sec. 106. Amtrak commuter.
Sec. 107. Through service in conjunction with intercity bus operations.
Sec. 108. Rail and motor carrier passenger service.
Sec. 109. Passenger choice.
Sec. 110. Application of certain laws.

PART 2—PROCUREMENT.

Sec. 121. Contracting out.

PART 3—Employee Protection Reforms

Sec. 141. Railway Labor Act Procedures.
Sec. 142. Service discontinuance.

PART 4—USE OF RAILROAD FACILITIES

Sec. 161. Liability limitation.
Sec. 162. Retention of facilities.

Subtitle B—Fiscal Accountability

Sec. 201. Amtrak financial goals.
Sec. 202. Independent assessment.
Sec. 203. Amtrak Reform Council.
Sec. 204. Sunset trigger.
Sec. 205. Access to records and accounts.
Sec. 206. Officers' pay.
Sec. 207. Exemption from taxes.

Subtitle C—Authorization of Appropriations

Sec. 301. Authorization of appropriations.

Subtitle D—Miscellaneous

Sec. 401. Status and applicable laws.
Sec. 402. Waste disposal.
Sec. 403. Assistance for upgrading facilities.
Sec. 404. Demonstration of new technology.
Sec. 405. Program master plan for Boston-New York main line.
Sec. 406. Americans with Disabilities Act of 1990.
Sec. 407. Definitions.
Sec. 408. Northeast Corridor cost dispute.
Sec. 409. Inspector General Act of 1978 amendment.
Sec. 410. Interstate rail compacts.
Sec. 411. Composition of Amtrak board of directors.
Sec. 412. Educational participation.
Sec. 413. Report to Congress on Amtrak bankruptcy.
Sec. 414. Amtrak to notify Congress of lobbying relationships.

SEC. 02. FINDINGS.

The Congress finds that—

(1) intercity rail passenger service is an essential component of a national intermodal passenger transportation system;

(2) Amtrak is facing a financial crisis, with growing and substantial debt obligations severely limiting its ability to cover operating costs and jeopardizing its long-term viability;

(3) immediate action is required to improve Amtrak's financial condition if Amtrak is to survive;

(4) all of Amtrak's stakeholders, including labor, management, and the Federal government, must participate in efforts to reduce Amtrak's costs and increase its revenues;

(5) additional flexibility is needed to allow Amtrak to operate in a businesslike manner in order to manage costs and maximize revenues;

(6) Amtrak should ensure that new management flexibility produces cost savings without compromising safety;

(7) Amtrak's management should be held accountable to ensure that all investment by the Federal Government and State governments is used effectively to improve the quality of service and the long-term financial health of Amtrak;

(8) Amtrak and its employees should proceed quickly with proposals to modify collective bargaining agreements to make more efficient use of manpower and to realize cost savings which are necessary to reduce Federal financial assistance;

(9) Amtrak and intercity bus service providers should work cooperatively and develop coordinated intermodal relationships promoting seamless transportation services which enhance travel options and increase operating efficiencies;

(10) Amtrak's Strategic Business Plan calls for the establishment of a dedicated source of capital funding for Amtrak in order to ensure that Amtrak will be able to fulfill the goals of maintaining—

(A) a national passenger rail system; and

(B) that system without Federal operating assistance; and

(11) Federal financial assistance to cover operating losses incurred by Amtrak should be eliminated by the year 2002.

SUBTITLE A—REFORMS

SUBTITLE A—OPERATIONAL REFORMS

SEC. 101. BASIC SYSTEM.

(a) OPERATION OF BASIC SYSTEM.—Section 24701 of title 49, United States Code, is amended to read as follows:

''§ 24701. Operation of basic system

''Amtrak shall provide intercity rail passenger transportation within the basic system. Amtrak shall strive to operate as a national rail passenger transportation system which provides access to all areas of the country and ties together existing and emergent regional rail passenger corridors and other intermodal passenger service.''.

(b) IMPROVING RAIL PASSENGER TRANSPORTATION.—Section 24702 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(c) DISCONTINUANCE.—Section 24706 of title 49, United States Code, is amended—

(1) by striking ''90 days'' and inserting ''180 days'' in subsection (a)(1);

(2) by striking ''24707(a) or (b) of this title,'' in subsection (a)(1) and inserting ''discontinuing service over a route,'';

(3) by inserting ''or assume'' after ''agree to share'' in subsection (a)(1); and

(4) by striking ''section 24707(a) or (b) of this title'' in subsections (a)(2) and (b)(1) and inserting ''paragraph (1)''.

(d) COST AND PERFORMANCE REVIEW.—Section 24707 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(e) SPECIAL COMMUTER TRANSPORTATION.—Section 24708 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

(f) CONFORMING AMENDMENT.—Section 24312(a)(1) of title 49, United States Code, is amended by striking '', 24701(a),''.

SEC. 102. MAIL, EXPRESS, AND AUTO-FERRY TRANSPORTATION.

(a) REPEAL.—Section 24306 of title 49, United States Code, is amended—

(1) by striking the last sentence of subsection (a);

(2) by striking subsection (b) and inserting the following:

''(b) AUTHORITY OF OTHERS TO PROVIDE AUTO-FERRY TRANSPORTATION.—State and local laws and regulations that impair the provision of auto-ferry transportation do not apply to Amtrak or a rail carrier providing auto-ferry transportation. A rail carrier may not refuse to participate with Amtrak in providing auto-ferry transportation because a State or local law or regulation makes the transportation unlawful.''.

SEC. 103. ROUTE AND SERVICE CRITERIA.

Section 24703 of title 49, United State Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

SEC. 104. ADDITIONAL QUALIFYING ROUTES.

Section 24705 of title 49, United State Code, and the item relating thereto in the table of sections of chapter 247 of such title, are repealed.

SEC. 105. TRANSPORTATION REQUESTED BY STATES, AUTHORITIES, AND OTHER PERSONS.

Section 24101(c)(2) of title 49, United States Code, is amended by inserting '', separately or in combination,'' after ''and the private sector''.

SEC. 106. AMTRAK COMMUTER.

(a) REPEAL OF CHAPTER 245.—Chapter 245 of title 49, United States Code, and the item relating thereto in the table of chapters of subtitle V of such title, are repealed.

(B) CONFORMING AMENDMENT.—Section 24301(f) of title 49, United States Code, is amended to read as follows:

''(f) TAX EXEMPTION FOR CERTAIN COMMUTER AUTHORITIES.—A commuter authority that was eligible to make a contract with Amtrak Commuter to provide commuter rail passenger transportation but which decided to provide its own rail passenger transportation beginning January 1, 1983, is exempt, effective October 1, 1981, from paying a tax or fee to the same extent Amtrak is exempt.''.

(c) TRACKAGE RIGHTS NOT AFFECTED.—The repeal of chapter 245 of title 49, United States Code, by subsection (a) of this section is without prejudice to the retention of trackage rights over property owned or leased by commuter authorities.

SEC. 107. THROUGH SERVICE IN CONJUNCTION WITH INTERCITY BUS OPERATIONS.

(a) IN GENERAL.—Section 24305(a) of title 49, United States Code, is amended by adding at the end the following new paragraph:

''(3)(A) Except as provided in subsection (d)(2), Amtrak may enter into a contract with a motor carrier of passengers for the intercity transportation of passengers by motor carrier over regular routes only—

''(i) if the motor carrier is not a public recipient of governmental assistance, as such term is defined in section 13902(b)(8)(A) of this title, other than a recipient of funds under section 5311 of this title;

''(ii) for passengers who have had prior movement by rail or will have subsequent movement by rail; and

''(iii) if the buses, when used in the provision of such transportation, are used exclusively for the transportation of passengers described in clause (ii).

''(B) Subparagraph (A) shall not apply to transportation funded predominantly by a

State or local government, or to ticket selling agreements.''.

(b) POLICY STATEMENT.—Section 24305(d) of title 49, United States Code, is amended by adding at the end the following new paragraph:

''(3) Congress encourages Amtrak and motor common carriers of passengers to use the authority conferred in section 11342(a) of this title for the purpose of providing improved service to the public and economy of operation.''.

SEC. 108. RAIL AND MOTOR CARRIER PASSENGER SERVICE.

(a) IN GENERAL.—Notwithstanding any other provision of law (other than section 24305(a) of title 49, United States Code), Amtrak and motor carriers of passengers are authorized—

(1) to combine or package their respective services and facilities to the public as a means of increasing revenues; and

(2) to coordinate schedules, routes, rates, reservations, and ticketing to provide for enhanced intermodal surface transportation.

(b) REVIEW.—The authority granted by subsection (a) is subject to review by the Surface Transportation Board and may be modified or revoked by the Board if modification or revocation is in the public interest.

SEC. 109. PASSENGER CHOICE.

Federal employees are authorized to travel on Amtrak for official business where total travel cost from office to office is competitive on a total trip or time basis.

SEC. 110. APPLICATION OF CERTAIN LAWS.

(a) APPLICATION OF FOIA.—Section 24301(e) of title 49, United States Code, is amended by adding at the end thereof the following: ''Section 552 of title 5, United States Code, applies to Amtrak for any fiscal year in which Amtrak receives a Federal subsidy.''.

(b) APPLICATION OF FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT.—Section 303B(m) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 3253b(m)) applies to a proposal in the possession or control of Amtrak.

SUBTITLE B—PROCUREMENT

SEC. 121. CONTRACTING OUT.

(a) CONTRACTING OUT REFORM.—Effective 180 days after the date of enactment of this Act, section 24312 of title 49, United States Code, is amended—

(1) by striking the paragraph designation for paragraph (1) of subsection (a);

(2) by striking ''(2)'' in subsection (a)(2) and inserting ''(b)''; and

(3) by striking subsection (b).

The amendment made by paragraph (3) is without prejudice to the power of Amtrak to contract out the provision of food and beverage services on board Amtrak trains or to contract out work not resulting in the layoff of Amtrak employees.

(b) NOTICES.—Notwithstanding any arrangement in effect before the date of the enactment of this Act, notices under section 6 of the Railway Labor Act (45 U.S.C. 156) with respect to all issues relating to contracting out by Amtrak of work normally performed by an employee in a bargaining unit covered by a contract between Amtrak and a labor organization representing Amtrak employees, which are applicable to employees of Amtrak shall be deemed served and effective on the date which is 45 days after the date of the enactment of this Act. Amtrak, and each affected labor organization representing Amtrak employees, shall promptly supply specific information and proposals with respect to each such notice. This subsection shall not apply to issues relating to provisions defining the scope or classification of work performed by an Amtrak employee. The issue for negotiation under this paragraph does not include the contracting out of work involving food and beverage services provided on Amtrak trains or the contracting out of work not resulting in the layoff of Amtrak employees.

(c) NATIONAL MEDIATION BOARD EFFORTS.—Except as provided in subsection (d), the National Mediation Board shall complete all efforts, with respect to the dispute described in subsection (b), under section 5 of the Railway Labor Act (45 U.S.C. 155) not later than 120 days after the date of the enactment of this Act.

(d) RAILWAY LABOR ACT ARBITRATION.—The parties to the dispute described in subsection (b) may agree to submit the dispute to arbitration under section 7 of the Railway Labor Act (45 U.S.C. 157), and any award resulting therefrom shall be retroactive to the date which is 120 days after the date of the enactment of this Act.

(e) DISPUTE RESOLUTION.—

(1) With respect to the dispute described in subsection (b) which—

(A) is unresolved as of the date which is 120 days after the date of the enactment of this Act; and

(B) is not submitted to arbitration as described in subsection (d),

Amtrak shall, and the labor organizations that are parties to such dispute shall, within 127 days after the date of the enactment of this Act, each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within 134 days after the date of the enactment of this Act, the individuals selected under the preceding sentence shall jointly select an individual from such roster to make recommendations with respect to such dispute under this subsection. If the National Mediation Board is not informed of the selection of the individual under the preceding sentence 134 days after the date of enactment of this Act, the Board will immediately select such individual.

(2) No individual shall be selected under paragraph (1) who is pecuniarily or otherwise interested in any organization of employees or any railroad or who is selected pursuant to section 141(d) of this Act.

(3) This compensation of individuals selected under paragraph (1) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act (45 U.S.C. 160) shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

(4) If the parties to a dispute described in subsection (b) fail to reach agreement within 150 days after the date of the enactment of this Act, the individual selected under paragraph (1) with respect to such dispute shall make recommendations to the parties proposing contract terms to resolve the dispute.

(5) If the parties to a dispute described in subsection (b) fail to reach agreement, no change shall be made by either of the parties in the conditions out of which the dispute arose for 30 days after recommendations are made under paragraph (4).

(6) Section 10 of the Railway Labor Act (45 U.S.C. 160) shall not apply to a dispute described in subsection (b).

(f) NO PRECEDENT FOR FREIGHT.—Nothing in this section shall be a precedent for the resolution of any dispute between a freight railroad and any labor organization representing that railroad's employees.

SUBTITLE C—EMPLOYEE PROTECTION REFORMS

SEC. 141. RAILWAY LABOR ACT PROCEDURES.

(a) NOTICES.—Notwithstanding any arrangement in effect before the date of the enactment of this Act, notices under section 6 of the Railway Labor Act (45 U.S.C. 156) with respect to all issues relating to employee protective arrangements and severance benefits which are applicable to employees of Amtrak, including all provisions of Appendix C–2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973, shall be deemed served and effective on the date which is 45 days after the date of the enactment of this Act. Amtrak, and each affected labor organization representing Amtrak employees, shall promptly supply specific information and proposals with respect to each such notice.

(b) NATIONAL MEDIATION BOARD EFFORTS.—Except as provided in subsection (c), the National Mediation Board shall complete all efforts, with respect to the dispute described in subsection (a), under section 5 of the Railway Labor Act (45 U.S.C. 155) not later than 120 days after the date of the enactment of this Act.

(c) RAILWAY LABOR ACT ARBITRATION.—The parties to the dispute described in subsection (a) may agree to submit the dispute to arbitration under section 7 of the Railway Labor Act (45 U.S.C. 157), and any award resulting therefrom shall be retroactive to the date which is 120 days after the date of the enactment of this Act.

(d) DISPUTE RESOLUTION.—

(1) With respect to the dispute described in subsection (a) which

(A) is unresolved as of the date which is 120 days after the date of the enactment of this Act; and

(B) is not submitted to arbitration as described in subsection (c), Amtrak shall, and the labor organization parties to such dispute shall, within 127 days after the date of the enactment of this Act, each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within 134 days after the date of the enactment of this Act, the individuals selected under the preceding sentence shall jointly select an individual from such roster to make recommendations with respect to such dispute under this subsection. If the National Mediation Board is not informed of the selection under the preceding sentence 134 days after the date of enactment of this Act, the Board will immediately select such individual.

(2) No individual shall be selected under paragraph (1) who is pecuniarily or otherwise interested in any organization of employees or any railroad or who is selected pursuant to section 121(e) of this Act.

(3) The compensation of individuals selected under paragraph (1) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

(4) If the parties to a dispute described in subsection (a) fail to reach agreement within 150 days after the date of the enactment of this Act, the individual selected under paragraph (1) with respect to such dispute shall make recommendations to the parties proposing contract terms to resolve the dispute.

(5) If the parties to a dispute described in subsection (a) fail to reach agreement, no change shall be made by either of the parties in the conditions out of which the dispute arose for 30 days after recommendations are made under paragraph (4).

(6) Section 10 of the Railway Labor Act (45 U.S.C. 160) shall not apply to a dispute described in subsection (a).

SEC. 142. SERVICE DISCONTINUANCE.

(a) REPEAL.—Section 24706(c) of title 49, United States Code, is repealed.

(b) EXISTING CONTRACTS.—Any provision of a contract entered into before the date of the enactment of this Act between Amtrak and a labor organization representing Amtrak employees relating to employee protective arrangements and severance benefits applicable to employees of Amtrak is extinguished,

including all provisions of Appendix C–2 to the National Railroad Passenger Corporation Agreement, signed July 5, 1973.

(c) SPECIAL EFFECTIVE DATE.—Subsections (a) and (b) of this section shall take effect 180 days after the date of the enactment of this Act.

(d) NONAPPLICATION OF BANKRUPTCY LAW PROVISION.—Section 1172(c) of title 11, United States Code, shall not apply to Amtrak and its employees.

SUBTITLE D—USE OF RAILROAD FACILITIES

SEC. 161. LIABILITY LIMITATION.

(a) AMENDMENT.—Chapter 281 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 28103. Limitations on rail passenger transportation liability

''(a) LIMITATIONS.—

''(1) Notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to damages or liability, a contract between Amtrak and its passengers or private railroad car operators and their passengers regarding claims for personal injury, death, or damage to property arising from or in connection with the provision of rail passenger transportation, or from or in connection with any operations over or use of right-of-way or facilities owned, leased, or maintained by Amtrak, or from or in connection with any rail passenger transportation operations over or rail passenger transportation use of right-of-way or facilities owned, leased, or maintained by any high-speed railroad authority or operator, any commuter authority or operator, or any rail carrier shall be enforceable if—

''(A) punitive or exemplary damages, where permitted, are not limited to less than 2 times compensatory damages awarded to any claimant by any State or Federal court or administrative agency, or in any arbitration proceeding, or in any other forum or $250,000, whichever is greater; and

''(B) passengers are provided adequate notice of any such contractual limitation or waiver or choice of forum.

''(2) For purposes of this subsection, the term 'claim' means a claim made directly or indirectly—

''(A) against Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, or any rail carrier or private rail car operators; or

''(B) against an affiliate engaged in railroad operations, officer, employee, or agent of, Amtrak, any high-speed railroad authority or operator, any commuter authority or operator, or any rail carrier.

''(3) Notwithstanding paragraph (1)(A), in any case in which death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, a claimant may recover in a claim limited by this subsection for actual or compensatory damages measured by the pecuniary injuries, resulting from such death, to the persons for whose benefit the action was brought, subject to the provisions of paragraph (1).

''(b) INDEMNIFICATION OBLIGATION.—Obligations of any party, however arising, including obligations arising under leases or contracts or pursuant to orders of an administrative agency, to indemnify against damages or liability for personal injury, death, or damage to property described in subsection (a), incurred after the date of the enactment of the Amtrak Reform and Accountability Act of 1997, shall be enforceable, notwithstanding any other statutory or common law or public policy, or the nature of the conduct giving rise to the damages or liability.''.

(e) CONFORMING AMENDMENT.—The table of sections of chapter 281 of title 49, United States Code, is amended by adding at the end the following new item:

''28103. Limitations on rail passenger transportation liability.''.

SEC. 162. RETENTION OF FACILITIES.

Section 24309(b) of title 49, United States Code, is amended by inserting ''or on January 1, 1997,'' after ''1979,''.

SUBTITLE B—FISCAL ACCOUNTABILITY

SEC. 201. AMTRAK FINANCIAL GOALS.

Section 24101(d) of title 49, United States Code, is amended by adding at the end thereof the following: ''Amtrak shall prepare a financial plan to operate within the funding levels authorized by section 24104 of this chapter, including budgetary goals for fiscal years 1998 through 2002. Commencing no later than the fiscal year following the fifth anniversary of the Amtrak Reform and Accountability Act of 1997, Amtrak shall operate without Federal operating grant funds appropriated for its benefit.''.

SEC. 202. INDEPENDENT ASSESSMENT.

(a) INITIATION.—Not later than 15 days after the date of enactment of this Act, the Secretary of Transportation shall contract with an entity independent of Amtrak and not in any contractual relationship with Amtrak and of the Department of Transportation to conduct a complete independent assessment of the financial requirements of Amtrak through fiscal year 2002. The entity shall have demonstrated knowledge about railroad industry accounting requirements, including the uniqueness of the industry and of Surface Transportation Board accounting requirements. The Department of Transportation, Office of Inspector General, shall approve the entity's statement of work and the award and shall oversee the contract. In carrying out its responsibilities under the preceding sentence, the Inspector General's Office shall perform such overview and validation or verification of data as may be necessary to assure that the assessment conducted under this subsection meets the requirements of this section.

(b) ASSESSMENT CRITERIA.—The Secretary and Amtrak shall provide to the independent entity estimates of the financial requirements of Amtrak for the period described above, using as a base the fiscal year 1997 appropriation levels established by the Congress. The independent assessment shall be based on an objective analysis of Amtrak's funding needs.

(c) CERTAIN FACTORS TO BE TAKEN INTO ACCOUNT.—The independent assessment shall take into account all relevant factors, including Amtrak's—

(1) cost allocation process and procedures;

(2) expenses related to intercity rail passenger service, commuter service, and any other service Amtrak provides;

(3) Strategic Business Plan, including Amtrak's projected expenses, capital needs, ridership, and revenue forecasts; and

(4) Amtrak's assets and liabilities.

For purposes of paragraph (3), in the capital needs part of its Strategic Business Plan Amtrak shall distinguish between that portion of the capital required for the Northeast corridor and that required outside the Northeast corridor, and shall include rolling stock requirements, including capital leases, ''state of good repair'' requirements, and infrastructure improvements.

(d) DEADLINE.—The independent assessment shall be completed not later than 180 days after the contract is awarded, and shall be submitted to the Council established under section 203, the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the United States Senate, and the Committee on Transportation and Infrastructure of the United States House of Representatives.

SEC. 203. AMTRAK REFORM COUNCIL.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the Amtrak Reform Council.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of 11 members, as follows:

(A) The Secretary of Transportation.

(B) Two individuals appointed by the President, of which—

(i) one shall be a representative of a rail labor organization; and

(ii) one shall be a representative of rail management.

(C) Three individuals appointed by the Majority Leader of the United States Senate.

(D) One individual appointed by the Minority Leader of the United States Senate.

(E) Three individuals appointed by the Speaker of the United States House of Representatives.

(F) One individual appointed by the Minority Leader of the United States House of Representatives.

(2) APPOINTMENT CRITERIA.—

(A) TIME FOR INITIAL APPOINTMENTS.—Appointments under paragraph (1) shall be made within 30 days after the date of enactment of this Act.

(B) EXPERTISE.—Individuals appointed under subparagraphs (C) through (F) of paragraph (1)—

(i) may not be employees of the United States;

(ii) may not be board members or employees of Amtrak;

(iii) may not be representatives of rail labor organizations or rail management; and

(iv) shall have technical qualifications, professional standing, and demonstrated expertise in the field of corporate management, finance, rail or other transportation operations, labor, economics, or the law, or other areas of expertise relevant to the Council.

(3) TERM.—Members shall serve for terms of 5 years. If a vacancy occurs other than by the expiration of a term, the individual appointed to fill the vacancy shall be appointed in the same manner as, and shall serve only for the unexpired portion of the term for which, that individual's predecessor was appointed.

(4) CHAIRMAN.—The Council shall elect a chairman from among its membership within 15 days after the earlier of—

(A) the date on which all members of the Council have been appointed under paragraph (2)(A); or

(B) 45 days after the date of enactment of this Act.

(4) MAJORITY REQUIRED FOR ACTION.—A majority of the members of the Council present and voting is required for the Council to take action. No person shall be elected chairman of the Council who receives fewer than 5 votes.

(c) ADMINISTRATIVE SUPPORT.—The Secretary of Transportation shall provide such administrative support to the Council as it needs in order to carry out its duties under this section.

(d) TRAVEL EXPENSES.—Each member of the Council shall serve without pay, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5, United States Code.

(e) MEETINGS.—Each meeting of the Council, other than a meeting at which proprietary information is to be discussed, shall be open to the public.

(f) ACCESS TO INFORMATION.—Amtrak shall make available to the Council all information the Council requires to carry out its duties under this section. The Council shall establish appropriate procedures to ensure against the public disclosure of any information obtained under this subsection that is a

trade secret or commercial or financial information that is privileged or confidential.

(g) DUTIES.—

(1) EVALUATION AND RECOMMENDATION.—The Council—

(A) shall evaluate Amtrak's performance; and

(B) make recommendations to Amtrak for achieving further cost containment and productivity improvements, and financial reforms.

(2) SPECIFIC CONSIDERATIONS.—In making its evaluation and recommendations under paragraph (1), the Council take consider all relevant performance factors, including—

(A) Amtrak's operation as a national passenger rail system which provides access to all regions of the country and ties together existing and emerging rail passenger corridors;

(B) appropriate methods for adoption of uniform cost and accounting procedures throughout the Amtrak system, based on generally accepted accounting principles; and

(C) management efficiencies and revenue enhancements, including savings achieved through labor and contracting negotiations.

(h) ANNUAL REPORT.—Each year before the fifth anniversary of the date of enactment of this Act, the Council shall submit to the Congress a report that includes an assessment of Amtrak's progress on the resolution or status of productivity issues; and makes recommendations for improvements and for any changes in law it believes to be necessary or appropriate.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Council such sums as may be necessary to enable the Council to carry out its duties.

SEC.—204. SUNSET TRIGGER.

(a) IN GENERAL.—If at any time more than 2 years after the date of enactment of this Act and implementation of the financial plan referred to in section 201 of Amtrak Reform Council finds that—

(1) Amtrak's business performance will prevent it from meeting the financial goals set forth in section 201; or

(2) Amtrak will require operating grant funds after the fifth anniversary of the date of enactment of this Act, then

the Council shall immediately notify the President, the Committee on Commerce, Science, and Transportation of the United States Senate; and the Committee on Transportation and Infrastructure of the United States House of Representatives.

(b) FACTORS CONSIDERED.—In making a finding under subsection (a), the Council shall take into account—

(1) Amtrak's performance;

(2) the findings of the independent assessment conducted under section 202;

(3) the level of Federal funds made available for carrying out the financial plan referred to in section 201; and

(4) Acts of God, national emergencies, and other events beyond the reasonable control of Amtrak.

(c) ACTION PLAN.—

(1) DEVELOPMENT OF PLANS.—Within 90 days after the Council makes a finding under subsection (a)—

(A) it shall develop and submit to the Congress an action plan for a restructured and rationalized national intercity rail passenger system; and

(B) Amtrak shall develop and submit to the Congress an action plan for the complete liquidation of Amtrak, after having the plan reviewed by the Inspector General of the Department of Transportation and the General Accounting Office for accuracy and reasonableness.

(2) CONGRESSIONAL ACTION OR INACTION.—If within 90 days after receiving the plans submitted under paragraph (1), an Act to implement a restructured and rationalized intercity rail passenger system does not become law, then Amtrak shall implement the liquidation plan developed under paragraph (1)(B) after such modification as may be required to reflect the recommendations, if any, of the Inspector General of the Department of Transportation and the General Accounting Office.

SEC. 205. ACCESS TO RECORDS AND ACCOUNTS.

Section 24315 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(h) ACCESS TO RECORDS AND ACCOUNTS.—A State shall have access to Amtrak's records, accounts, and other necessary documents used to determine the amount of any payment to Amtrak required of the State.''.

SEC. 206. OFFICERS' PAY.

Section 24303(b) of title 49, United States Code, is amended by adding at the end the following: ''The preceding sentence shall not apply for any fiscal year for which no Federal assistance is provided to Amtrak.''.

SEC. 207. EXEMPTION FROM TAXES.

(a) IN GENERAL.—Subsection (l) of section 24301 of title 49, United States Code, is amended—

(1) by striking so much of paragraph (1) as precedes ''exempt'' and inserting the following:

''(1) IN GENERAL.—Amtrak, a rail carrier subsidiary of Amtrak, and any passenger or other customer of Amtrak or such subsidiary, are'';

(2) by striking ''tax or fee imposed'' in paragraph (1) and all that follows through ''levied on it'' and inserting ''tax, fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority on Amtrak, a rail carrier subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom'';

(3) by striking the last sentence of paragraph (1);

(4) by striking ''(2) The'' in paragraph (2) and inserting ''(3) JURISDICTION OF UNITED STATES DISTRICT COURTS.—The''; and

(5) by inserting after paragraph (1) the following:

''(2) PHASE-IN OF EXEMPTION FOR CERTAIN EXISTING TAXES AND FEES.—

''(A) YEARS BEFORE 2000.—Notwithstanding paragraph (1), Amtrak is exempt from a tax or fee referred to in paragraph (1) that Amtrak was required to pay as of September 10, 1982, during calendar years 1997 through 1999, only to the extent specified in the following table:

PHASE-IN OF EXEMPTION

Year of assessment	*Percentage of exemption*
1997	40
1998	60
1999	80
2000 and later years	100

''(B) TAXES ASSESSED AFTER MARCH, 1999.—Amtrak shall be exempt from any tax or fee referred to in subparagraph (A) that is assessed on or after April 1, 1999.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) do not apply to sales taxes imposed on intrastate travel as of the date of enactment of this Act.

SUBTITLE C—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 24104(a) of title 49, United States Code, is amended to read as follows:

''(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation—

''(1) $1,138,000,000 for fiscal year 1998;

''(2) $1,058,000,000 for fiscal year 1999;

''(3) $1,023,000,000 for fiscal year 2000;

''(4) $989,000,000 for fiscal year 2001; and

''(5) $955,000,000 for fiscal year 2002, for the benefit of Amtrak for capital expenditures under chapters 243 and 247 of this title, operating expenses, and payments described in subsection (c)(1)(A) through (C). In fiscal years following the fifth anniversary of the enactment of the Amtrak Reform and Accountability Act of 1997 no funds authorized for Amtrak shall be used for operating expenses other than those prescribed for tax liabilities under section 3221 of the Internal Revenue Code of 1986 that are more than the amount needed for benefits of individuals who retire from Amtrak and for their beneficiaries.''.

SUBTITLE D—MISCELLANEOUS

SEC.—401. STATUS AND APPLICABLE LAWS.

Section 24301 of title 49, United States Code, is amended—

(1) by striking ''rail carrier under section 10102'' in subsection (a)(1) and inserting ''railroad carrier under section 20102(2) and chapters 261 and 281''; and

(2) by amending subsection (c) to read as follows:

''(c) APPLICATION OF SUBTITLE IV.—Subtitle IV of this title shall not apply to Amtrak, except for sections 11301, 11322(a), 11502 (a) and (d), and 11706. Notwithstanding the preceding sentence, Amtrak shall continue to be considered an employer under the Railroad Retirement Act of 1974, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act.''.

SEC.—402. WASTE DISPOSAL.

Section 24301(m)(1)(A) of title 49, United States Code, is amended by striking ''1996'' and inserting ''2001''.

SEC.—403. ASSISTANCE FOR UPGRADING FACILITIES.

Section 24310 of title 49, United States Code, and the item relating thereto in the table of sections of chapter 243 of such title, are repealed.

SEC.—404. DEMONSTRATION OF NEW TECHNOLOGY.

Section 24314 of title 49, United States Code, and the item relating thereto in the table of sections for chapter 243 of that title, are repealed.

SEC.—405. PROGRAM MASTER PLAN FOR BOSTON-NEW YORK MAIN LINE.

(a) REPEAL.—Section 24903 of title 49, United States Code, is repealed and the table of sections for chapter 249 of such title is amended by striking the item relating to that section.

(b) CONFORMING AMENDMENTS.—

(1) Section 24902 of title 49, United States Code is amended by striking subsections (a), (c), and (d) and redesignating subsection (b) as subsection (a) and subsections (e) through (m) as subsections (b) through (j), respectively.

(2) Section 24904(a)(8) is amended by striking ''the high-speed rail passenger transportation area specified in section 24902(a)(1) and (2)'' and inserting ''a high-speed rail passenger transportation area''.

SEC.—406. AMERICANS WITH DISABILITIES ACT OF 1990.

(a) APPLICATION TO AMTRAK.—

(1) ACCESS IMPROVEMENTS AT CERTAIN SHARED STATIONS.—Amtrak is responsible for its share, if any, of the costs of accessibility improvements at any station jointly used by Amtrak and a commuter authority.

(2) CERTAIN REQUIREMENTS NOT TO APPLY UNTIL 1998.—Amtrak shall not be subject to

any requirement under subsection (a)(1), (a)(3), or (e)(2) of section 242 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12162) until January 1, 1998.

(b) CONFORMING AMENDMENT.—Section 24307 of title 49, United States Code, is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

SEC.—407. DEFINITIONS.

Section 24102 of title 49, United States Code, is amended—

(1) by striking paragraphs (2) and (11);

(2) by redesignating paragraphs (3) through (10) as paragraphs (2) through (9), respectively; and

(3) by inserting '', including a unit of State or local government,'' after ''means a person'' in paragraph (7), as so redesignated.

SEC.—408. NORTHEAST CORRIDOR COST DISPUTE.

Section 1163 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1111) is repealed.

SEC.—409. INSPECTOR GENERAL ACT OF 1978 AMENDMENT

(a) AMENDMENT.—

(1) IN GENERAL.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''Amtrak,''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect in the first fiscal year for which Amtrak receives no Federal subsidy.

(b) AMTRAK NOT FEDERAL ENTITY.—Amtrak shall not be considered a Federal entity for purposes of the Inspector General Act of 1978. The proceeding sentence shall apply for any fiscal year for which Amtrak receives no Federal subsidy.

(c) FEDERAL SUBSIDY.—

(1) ASSESSMENT.—In any fiscal year for which Amtrak requests Federal assistance, the Inspector General of the Department of Transportation shall review Amtrak's operations and conduct an assessment similar to the assessment required by section 202(a). The Inspector General shall report the results of the review and assessment to—

(A) the President of Amtrak;

(B) the Secretary of Transportation;

(C) the United States Senate Committee on Appropriations;

(D) the United States Senate Committee on Commerce, Science, and Transportation;

(E) the United States House of Representatives Committee on Appropriations;

(F) the United States House of Representatives Committee on Transportation and Infrastructure.

(2) REPORT.—The report shall be submitted, to the extent practicable, before any such committee reports legislation authorizing or appropriating funds for Amtrak for capital acquisition, development, or operating expenses.

(3) SPECIAL EFFECTIVE DATE.—This subsection takes effect 1 year after the date of enactment of this Act.

SEC.—410. INTERSTATE RAIL COMPACTS.

(a) 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—

(1) retaining an existing service or commencing a new service;

(2) assembling rights-of-way; and

(3) performing capital improvements, including—

(A) the construction and rehabilitation of maintenance facilities;

(B) the purchase of locomotives; and

(C) operational improvements, including communications, signals, and other systems.

(b) FINANCING.—An interstate compact established by States under subsection (a) may provide that, in order to carry out the compact, the States may—

(1) accept contributions from a unit of State or local government or a person;

(2) use any Federal or State funds made available for intercity passenger rail service (except funds made available for the National Railroad Passenger Corporation);

(3) on such terms and conditions as the States consider advisable—

(A) borrow money on a short-term basis and issue notes for the borrowing; and

(B) issue bonds; and

(4) obtain financing by other means permitted under Federal or State law.

(c) ELIGIBLE PROJECTS.—Section 133(b) of title 23, United States Code, is amended by striking ''and publicly owned intracity or intercity bus terminals and facilities.'' in paragraph (2) and inserting ''facilities, including vehicles and facilities, publicly or privately owned, that are used to provide intercity passenger service by bus or rail, or a combination of both.''.

(d) 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) by striking ''or'' at the end of paragraph (3);

(2) by striking ''standard.'' in paragraph (4) and inserting ''standard; or''

(3) by inserting after paragraph (4) the following:

''(5) 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.''.

(e) ELIGIBILITY OF PASSENGER RAIL AS NATIONAL HIGHWAY SYSTEM PROJECT.—Section 103(i) of title 23, United States Code, is amended by adding at the end thereof the following:

''(14) Construction, reconstruction, and rehabilitation of, and operational improvements for, intercity rail passenger facilities (including facilities owned by the National Railroad Passenger Corporation), operation of intercity rail passenger trains, and acquisition or reconstruction of rolling stock for intercity rail passenger 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 operation.''.

SEC. 411. COMPOSITION OF AMTRAK BOARD OF DIRECTORS.

Section 24302(a) of title 49, United States Code, is amended—

(1) by striking ''3'' in paragraph (1)(C) and inserting ''4'';

(2) by striking clauses (i) and (ii) of paragraph (1)(C) and inserting the following:

''(i) one individual selected as a representative of rail labor in consultation with affected labor organizations.

''(ii) one chief executive officer of a State, and one chief executive officer of a municipality, selected from among the chief executive officers of State and municipalities with an interest in rail transportation, each of whom may select an individual to act as the officer's representative at board meetings.'';

(4) by striking subparagraphs (D) and (E) of paragraph (1);

(5) by inserting after subparagraph (C) the following:

''(D) 3 individuals appointed by the President of the United States, as follows:

''(i) one individual selected as a representative of a commuter authority, (as defined in section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) that provides its own commuter rail passenger transportation or makes a contract with an operator, in consultation with affected commuter authorities.

''(ii) one individual with technical expertise in finance and accounting principles.

''(iii) one individual selected as a representative of the general public.''; and

(6) by striking paragraph (6) and inserting the following:

''(6) The Secretary may be represented at a meeting of the Board by his designate.''.

The amendments made by this section shall not affect the term of any sitting director as of the date of enactment.

SEC. 412. EDUCATIONAL PARTICIPATION.

Amtrak shall participate in educational efforts with elementary and secondary schools to inform students on the advantages of rail travel and the need for rail safety.

SEC. 413. REPORT TO CONGRESS ON AMTRAK BANKRUPTCY.

Within 120 days after the date of enactment of this Act, the Comptroller General shall submit a report identifying financial and other issues associated with an Amtrak bankruptcy to the United States Senate Committee on Commerce, Science, and Transportation and to the United States House of Representatives Committee on Transportation and Infrastructure. The report shall include an analysis of the implications of such a bankruptcy on the Federal government, Amtrak's creditors, and the Railroad Retirement System.

SEC. 414. AMTRAK TO NOTIFY CONGRESS OF LOBBYING RELATIONSHIPS.

If, at any time, Amtrak enters into a consulting contract or similar arrangement, or a contract for lobbying, with a lobbying firm, an individual who is a lobbyist, or who is affiliated with a lobbying firm, as those terms are defined in section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602), Amtrak shall notify the United States Senate Committee on Commerce, Science, and Transportation, and the United States House of Representatives Committee on Transportation and Infrastructure of—

(1) the name of the individual or firm involved;

(2) the purpose of the contract or arrangement; and

(3) the amount and nature of Amtrak's financial obligation under the contract.

DEWINE AMENDMENTS NOS. 1355–1356

(Ordered to lie on the table.)

Mr. DEWINE submitted two amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1355

On page 236, strike line 16 and insert the following: subsection (a).

SEC. 1408. SCHOOL TRANSPORTATION SAFETY.

(a) STUDY.—Not later than 3 months after the date of enactment of this Act, the Secretary shall offer to enter into an agreement with the Transportation Research Board of the National Academy of Sciences to conduct a study of the safety issues attendant to the transportation of school children to and from school and school-related activities by various transportation modes.

(b) TERMS OF AGREEMENT.—The agreement under subsection (a) shall provide that—

(1) the Transportation Research Board, in conducting the study, consider—

(A) in consultation with the National Transportation Safety Board, the Bureau of Transportation Statistics, and other relevant entities, available crash injury data;

(B) vehicle design and driver training requirements, routing, and operational factors that affect safety; and

(C) other factors that the Secretary considers to be appropriate;

(2) if the data referred to in paragraph (1)(A) is unavailable or insufficient, recommend a new data collection regiment and implementation guidelines; and

(3) a panel shall conduct the study and shall include—

(A) representatives of—

(i) highway safety organizations;

(ii) school transportation;

(iii) mass transportation operators; and

(iv) employee organizations;

(B) academic and policy analysts; and

(C) other interested parties.

(c) REPORT.—Not later than 12 months after the Secretary enters into an agreement under subsection (a), the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that contains the results of the study.

(d) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

(A) $200,000 for fiscal year 1998; and

(B) $200,000 for fiscal year 1999.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

SEC. 1409. IMPROVED INTERSTATE SCHOOL BUS SAFETY.

(a) APPLICABILITY OF FEDERAL MOTOR CARRIER SAFETY REGULATORY TO INTERSTATE SCHOOL BUS OPERATIONS.—Section 31136 of title 49, United States Code, is amended by adding at the end of the following:

''(g) APPLICABILITY TO SCHOOL TRANSPORTATION OPERATIONS OF LOCAL EDUCATIONAL AGENCIES.—Not later than 6 months after the date of enactment of this subsection, the Secretary shall issue regulations that require that the relevant commercial motor vehicle safety standards issued under subsection (a) apply to all interstate school transportation operations conducted by local educational agencies (as that term is defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)).''.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes—

(1) the status of compliance by private for-hire motor carries and local educational agencies (as that term is defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) in meeting the requirements of section 31136 of title 49, United States Code; and

(2) any activities carried out by the Secretary or 1 or more States to enforce the requirements referred to in paragraph (1).

AMENDMENT NO. 1356

Beginning on page 225, strike line 12 and all that follows through page 227, line 13, and insert the following:

''(5) REPEAT INTOXICATED DRIVER LAW.—The term 'repeat intoxicated driver law' means a State law that—

''(A) provides, as a minimum penalty, that an individual convicted of a second offense for driving while intoxicated or driving under the influence within 5 years after a conviction for that offense shall receive—

''(i)(I) a license suspension for not less than 1 year; or

''(II) a license restriction for not less than 1 year permitting the individual to drive only a vehicle that is equipped with a functioning ignition interlock device;

''(ii) an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and

''(iii)(I) an assignment of 30 days of community service; or

''(II) 5 days of imprisonment; and

''(B) provides that each of the sanctions under subparagraph (A) shall be increased by 10 percent for each subsequent such offense within a 5-year period.

''(b) TRANSFER OF FUNDS.—

''(1) FISCAL YEARS 2001 AND 2002.—

''(A) IN GENERAL.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under paragraphs (1) and (3) of section 104(b) to the apportionment of the State under section 402 to be used—

''(i) for alcohol-impaired driving countermeasures; or

''(ii) for enforcement by State and local law enforcement agencies laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including use for purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures dedicated to enforcement of those laws.

''(B) DERIVATION OF AMOUNT TO BE TRANSFERRED.—An amount transferred under subparagraph (A) may be derived—

''(i)) from the apportionment of the State under section 104(b)(1);

''(ii) from the apportionment of the State under section 104(b)(3); or

(iii) partially from the apportionment of the State under section 104(b)(1) and partially from the apportionment of the State under section 104(b)(3).

''(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer 3 percent of the funds apportioned to the State on that date under each of paragraphs (1) and (3) of section 104(b) to the apportionment of the State under section 402 to be used—

''(A) for alcohol-impaired driving countermeasures; or

''(B) for enforcement by State and local law enforcement agencies laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including use for the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures dedicated to enforcement of those laws.

McCAIN AMENDMENTS NOS. 1357–1364

(Ordered to lie on the table.)

Mr. McCAIN submitted eight amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1357

At the appropriate place, insert the following:

SEC. —. HIGHWAY DEMONSTRATION PROJECTS.

(a) FINDINGS.—The Senate finds that—

(1) 10 demonstration projects totaling $362 million were listed for special line-item funding in the Surface Transportation Assistance Act of 1982;

(2) 152 demonstration projects totaling $1.4 billion were named in the Surface Transportation and Uniform Relocation Assistance Act of 1987;

(3) 64 percent of the funding for the 152 projects had not been obligated after 5 years and State transportation officials determined the projects added little, if any, to meeting their transportation infrastructure priorities;

(4) 538 location specific projects totaling $6.23 billion were included in the Intermodal Surface Transportation Efficiency Act of 1991;

(5) more than $3.3 billion of the funds authorized for the 538 location specific-projects remained unobligated as of January 31, 1997;

(6) the General Accounting Office determined that 31 States plus the District of Columbia and Puerto Rico would have received more funding if the Intermodal Surface Transportation Efficiency Act location-specific project funds were redistributed as Federal-aid highway program apportionments;

(7) this type of project funding diverts Highway Trust Fund money away from State transportation priorities established under the formula allocation process and under the Intermodal Surface Transportation and Efficiency Act of 1991;

(8) on June 20, 1995, by a vote of 75 yeas to 21 nays, the Senate voted to prohibit the use of Federal Highway Trust Fund money for future demonstration projects;

(9) the Intermodal Surface Transportation and Efficiency Act of 1991 expires at the end of Fiscal Year 1997; and

(10) legislation is pending in the House of Representatives sets aside $4.3 billion in new mandatory spending for so-called ''high priority'' projects.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) notwithstanding different views one existing Highway Trust fund distribution formulas, funding for demonstration projects or other similarly titled projects diverts Highway Trust Fund money away from State priorities and deprives States of the ability to adequately address their transportation needs;

(2) State are best able to determine the priorities for allocating Federal-Aid-To-Highway monies within their jurisdiction;

(3) Congress should not divert limited Highway Trust Funds resources away from State transportation priorities by authorizing new highway projects; and

(4) Congress should not authorize any new demonstration projects, similarly-titled projects, or legislative discretionary projects.

AMENDMENT NO. 1358

On page 40, strike lines 1 through 16.

AMENDMENT NO. 1359

Notwithstanding any provision of law, authorizations and appropriations for demonstration projects shall lapse for any project for which funds have not been obligated within three years.

AMENDMENT NO. 1360

Notwithstanding any other provision of law, the Secretary shall limit obligations for demonstration projects, or any similarly titled high priority projects that are authorized or appropriated.

AMENDMENT NO. 1361

At the appropriate place, insert the following:

SEC. 105. PROTECTION OF CHILDREN FROM AIR-BAG HARM.

(a) SUSPENSION OF UNBELTED BARRIER TESTING.—The provision in Federal Motor Vehicle Safety Standard No. 208 set forth at

section 571.208 of the Department of Transportation Regulations (49 C.F.R. 571.208) requiring air bag-equipped vehicles to be crashed into a barrier using unbelted 50th percentile adult male dummies is hereby suspended.

(b) RULEMAKING TO PROTECT CHILDREN.—

(1) IN GENERAL.—Not later than June 1, 1998, the Secretary of Transportation shall issue a notice of proposed rulemaking to amend and improve the occupant protection provided by Federal Motor Vehicle Safety Standard No. 208. The notice shall propose that air bags provide protection to individuals according to the following priorities:

(A) FIRST PRIORITY.—To minimize the risk of harm to children from air bags.

(B) SECOND PRIORITY.—To improve protection for belted occupants.

(C) THIRD PRIORITY.—To protect unbelted occupants to the extent reasonable and practicable, consistent with minimizing the risk to children.

(2) METHODS TO ENSURE PROTECTION.—Notwithstanding subsection (a), the notice required by paragraph (a) may include such static and dynamic tests as the Secretary determines to be reasonable, practicable, and appropriate to ensure the safety of children, especially those who are unbelted and out of position, as well as the safety of other vehicle occupants, consistent with the priorities set forth in paragraph (1).

(3) FINAL RULE.—The Secretary shall complete the rulemaking required by this subsection by issuing, not later than June 1, 1999, a final rule consistent with paragraphs (1) and (2) of this subsection. The Secretary may extend the period for issuing the final rule for not more than 6 months. If the Secretary extends that period, then the Secretary shall state the reasons for the extension in the notice of extension.

AMENDMENT NO. 1362

At the appropriate place, insert the following:

SEC. . AIRBAG DEPLOYMENT RULE-MAKING PROCEDURE.

The Secretary shall provide notice and an opportunity for public comment for establishing a threshold for the deployment on impact of a passive passenger restraint system in passenger motor vehicles.

AMENDMENT NO. 1363

At the appropriate place, insert the following:

SEC. . DOT TO DETERMINE ELIGIBILITY FOR AIRBAG SWITCH USE.

If the Secretary of Transportation, under any provision of law, permits the employment of a device or switch to activate or deactivate a passive passenger restraint system installed in passenger motor vehicles and establishes criteria for the determination of what individuals or classes of individuals are eligible to use that device or switch, then that determination shall be made by the Secretary.

AMENDMENT NO. 1364

At the end of the amendment, insert the following:

SECTION 1. SHORT TITLE; APPLICATION WITH PRECEDING PROVISIONS AND AMENDMENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Intermodel Transportation Safety Act of 1997''.

(b) APPLICATION.—The provisions of this Act appearing after this section, including any amendment made by any such provision, supersede any provision appearing before this section to the extent that the provisions or amendments appearing after this section conflict with and cannot be reconciled with the provisions (including amendments) appearing before this section. For purposes of this subsection, conflicts of enumeration or lettering of subdivisions of any provision of law amended by this Act, and conflicts of captions of any provision of law amended by this Act, shall be ignored.

SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title; application with preceding provisions of amendments.
Sec. 2. Amendment of title 49, United States Code.
Sec. 3. Table of contents.

Title I—Highway Safety

Sec. 101. Highway safety programs.
Sec. 102. National driver register.
Sec. 103. Authorizations of appropriations.
Sec. 104. Airbags.
Sec. 105. Protection of children from airbag harm.

Title II—Hazardous materials transportation reauthorization

Sec. 201. Findings and purposes; definitions.
Sec. 202. Handling criteria repeal.
Sec. 203. Hazmat employee training requirements.
Sec. 204. Registration.
Sec. 205. Shipping paper retention.
Sec. 206. Unsatisfactory safety rating.
Sec. 207. Public sector training curriculum.
Sec. 208. Planning and training grants.
Sec. 209. Special permits and exclusions.
Sec. 210. Administration.
Sec. 211. Cooperative agreements.
Sec. 212. Enforcement.
Sec. 213. Penalties.
Sec. 214. Preemption.
Sec. 215. Judicial review.
Sec. 216. Hazardous material transportation reauthorization.
Sec. 217. Authorization of appropriations.

Title III—Comprehensive One-call Notification

Sec. 301. Findings.
Sec. 302. Establishment of one-call notification programs.

Title IV—Motor Carrier Safety

Sec. 401. Statement of purpose.
Sec. 402. Grants to States.
Sec. 403. Federal share.
Sec. 404. Authorization of appropriations.
Sec. 405. Information systems and strategic safety initiatives.
Sec. 406. Improved flow of driver history pilot program.
Sec. 407. Motor carrier and driver safety research.
Sec. 408. Authorization of appropriations.
Sec. 409. Conforming amendments.
Sec. 410. Automobile transporter defined.
Sec. 411. Repeal of review panel; review procedure.
Sec. 412. Commercial motor vehicle operators.
Sec. 413. Penalties.
Sec. 414. International registration plan and international fuel tax agreement.
Sec. 415. Study of adequacy of parking facilities.
Sec. 416. National minimum drinking age—technical corrections.
Sec. 417. Application of regulations.
Sec. 418. Authority over charter bus transportation.
Sec. 419. Federal motor carrier safety investigations.
Sec. 420. Foreign motor carrier safety fitness.
Sec. 421. Commercial motor vehicle safety advisory committee.
Sec. 422. Waivers; exemptions; pilot programs.
Sec. 423. Commercial motor vehicle safety studies.
Sec. 424. Increased MCSAP participation impact study.

Title V—Rail and Mass Transportation Antiterrorism; Safety

Sec. 501. Purpose.
Sec. 502. Amendment to the ''wrecking trains'' statute.
Sec. 503. Terrorist attacks against mass transportation.
Sec. 504. Investigative jurisdiction.
Sec. 505. Safety considerations in grants or loans to commuter railroads.
Sec. 506. Railroad accident and incident reporting.
Sec. 507. Vehicle weight limitations—mass transportation buses.

Title—VI Sportfishing and Boating Safety

Sec. 601. Amendment of 1950 Act.
Sec. 602. Outreach and communications programs.
Sec. 603. Clean Vessel Act funding.
Sec. 604. Boating infrastructure.
Sec. 605. Boat safety funds.

TITLE I—HIGHWAY SAFETY

SEC. 101. HIGHWAY SAFETY PROGRAMS.

(a) UNIFORM GUIDELINES.—Section 402(a) of title 23, United States Code, is amended by striking ''section 4007'' and inserting ''section 4004''.

(b) ADMINISTRATIVE REQUIREMENTS.—Section 402(b) of such title is amended—

(1) by striking the period at the end of subparagraph (A) and subparagraph (B) of paragraph (1) and inserting a semicolon;

(2) by inserting '', including Indian tribes,'' after ''subdivisions of such State'' in paragraph (1)(C);

(3) by striking the period at the end of paragraph (1)(C) and inserting a semicolon and ''and''; and

(5) by striking paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3).

(c) APPORTIONMENT OF FUNDS—Section 402(c) of such title is amended by—

(1) by inserting ''the apportionment to the Secretary of the Interior shall not be less than three-fourths of 1 percent of the total apportionment and'' after ''except that'' in the sixth sentence; and

(2) by striking the seventh sentence.

(d) APPLICATION IN INDIAN COUNTRY.—Section 402(i) of such title is amended to read as follows:

''(i) APPLICATION IN INDIAN COUNTRY.—

''(1) IN GENERAL.—For the purpose of application of this section in Indian country, the terms 'State' and 'Governor of a State' include the Secretary of the Interior and the term 'political subdivision of a State' includes an Indian tribe. Notwithstanding the provisions of subparagraph (b)(1)(C) of this section, 95 percent of the funds apportioned to the Secretary of the Interior under this section shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions. The provisions of subparagraph (b)(1)(D) of this section shall be applicable to Indian tribes, except to those tribes with respect to which the Secretary determines that application of such provisions would not be practicable.

''(2) INDIAN COUNTRY DEFINED.—For the purposes of this subsection, the term 'Indian country' means—

''(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

''(B) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

''(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.''.

(e) RULEMAKING PROCESS.—Section 402(j) of such title is amended to read as follows:

''(j) RULEMAKING PROCESS.—The Secretary may from time to time conduct a rulemaking process to identify highway safety programs that are highly effective in reducing motor vehicle crashes, injuries and deaths. Any such rulemaking shall take into account the major role of the States in implementing such programs. When a rule promulgated in accordance with this section takes effect, States shall consider these highly effective programs when developing their highway safety programs.''

(f) SAFETY INCENTIVE GRANTS.—Section 402 of such title is amended by striking subsection (k) and inserting the following:

''(k)(1) SAFETY INCENTIVE GRANTS: GENERAL AUTHORITY.—The Secretary shall make a grant to a State that takes specific actions to advance highway safety under subsection (l) of this section. A State may qualify for more than one grant and shall receive a separate grant for each subsection for which it qualifies. Such grants may only be used by recipient States to implement and enforce, as appropriate, the programs for which the grants are awarded.

''(2) MAINTENANCE OF EFFORT.—No grant may be made to a State under subsection (l) or (m) of this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for the specific actions for which a grant is provided at or above the average level of such expenditures in its 2 fiscal years preceding the date of the enactment of this subsection.

''(3) MAXIMUM PERIOD OF ELIGIBILITY; FEDERAL SHARE FOR GRANTS.—Each grant under subsection (l) or (m) of this section shall be available for not more than 6 fiscal years beginning in the fiscal year after September 30, 1997, in which the State becomes eligible for the grant. The Federal share payable for any grant under subsection (l) or (m) shall not exceed—

''(A) in the first and second fiscal years in which the State receives the grant, 75 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year a program adopted by the State;

''(B) in the third and fourth fiscal years in which the State receives the grant, 50 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year such program; and

''(C) in the fifth and sixth fiscal years in which the State receives the grant, 25 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year such program.

''(l) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES: BASIC GRANT ELIGIBILITY.—The Secretary shall make grants to those States that adopt and implement effective programs to reduce traffic safety problems resulting from persons driving under the influence of alcohol. A State shall become eligible for one or more of three basic grants under this subsection by adopting or demonstrating the following to the satisfaction of the Secretary:

''(1) BASIC GRANT A.—At least 7 of the following:

''(A) .08 BAC PER SE LAW.—A law that provides that any individual with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle shall be deemed to be driving while intoxicated.

''(B) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

''(i) in the case of a person who, in any 5-year period beginning after the date of enactment of this subsection, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receiving the report of the law enforcement officer—

''(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

''(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

''(ii) the suspension and revocation referred to under clause (A)(i) of this subparagraph shall take effect not later than 30 days after the day on which the person refused to submit to a chemical test or received notice of having been determined to be driving under the influence of alcohol, in accordance with the State's procedures.

''(C) UNDERAGE DRINKING PROGRAM.—An effective system, as determined by the Secretary, for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages. Such system shall include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals age 21 years of age or older.

''(D) STOPPING MOTOR VEHICLES.—Either—

''(i) A statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of such motor vehicles are driving while under the influence of alcohol, or

''(ii) a statewide Special Traffic Enforcement Program for impaired driving that emphasizes publicity for the program.

''(E) REPEAT OFFENDERS.—Effective sanctions for repeat offenders convicted of driving under the influence of alcohol. Such sanctions, as determined by the Secretary, may include electronic monitoring; alcohol interlocks; intensive supervision of probation; vehicle impoundment, confiscation, or forfeiture; and dedicated detention facilities.

''(F) GRADUATED LICENSING SYSTEM.—A three-stage graduated licensing system for young drivers that includes nighttime driving restrictions during the first 2 stages, requires all vehicle occupants to be properly restrained, and makes it unlawful for a person under age 21 to operate a motor vehicle with a blood alcohol concentration of .02 percent or greater.

''(G) DRIVERS WITH HIGH BAC'S.—Programs to target individuals with high blood alcohol concentrations who operate a motor vehicle. Such programs may include implementation of a system of graduated penalties and assessment of individuals convicted of driving under the influence of alcohol.

''(H) YOUNG ADULT DRINKING PROGRAMS.—Programs to reduce driving while under the influence of alcohol by individuals age 21 through 34. Such programs may include awareness campaigns; traffic safety partnerships with employers, colleges, and the hospitality industry; assessment of first time offenders; and incorporation of treatment into judicial sentencing.

''(I) TESTING FOR BAC.—An effective system for increasing the rate of testing for blood alcohol concentration of motor vehicle drivers at fault in fatal accidents.

''(2) BASIC GRANT B.—Either of the following:

''(A) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

''(i) in the case of a person who, in any 5-year period beginning after the date of enactment of this subsection, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as requested by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receiving the report of the law enforcement officer—

''(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

''(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

''(ii) the suspension and revocation referred to under clause (A)(i) of this subparagraph shall take effect not later than 30 days after the day on which the person refused to submit to a chemical test or receives notice of having been determined to be driving under the influence of alcohol, in accordance with the State's procedures; or

''(B) 0.08 BAC PER SE LAW.—A law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle shall be deemed to be driving while intoxicated.

''(3) BASIC GRANT C.—Both of the following:

''(A) FATAL IMPAIRED DRIVER PERCENTAGE REDUCTION.—The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has decreased in each of the 3 most recent calendar years for which statistics for determining such percentages are available; and

''(B) FATAL IMPAIRED DRIVER PERCENTAGE COMPARISON.—The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has been lower than the average percentage for all States in each of such calendar years.

''(4) BASIC GRANT AMOUNT.—The amount of each basic grant under this subsection for any fiscal year shall be up to 15 percent of the amount apportioned to the State for fiscal year 1997 under section 402 of this title.

''(5) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES: SUPPLEMENTAL GRANTS.—During the period in which a State is eligible for a basic grant under this subsection, the State shall be eligible to receive a supplemental grant in no more than 2 fiscal years of up to 5 percent of the amount apportioned to the State in fiscal year 1997 under section 402 of this title. The State may receive a separate supplemental grant for meeting each of the following criteria:

''(A) OPEN CONTAINER LAWS.—The State makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

''(i) as allowed in the passenger area, by a person (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

''(ii) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger area.

''(B) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—The State provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in a crash resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

''(C) VIDEO EQUIPMENT FOR DETECTION OF DRUNK DRIVERS.—The State provides for a program to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol and in prosecuting those persons, and to train personnel in the use of that equipment.

''(D) BLOOD ALCOHOL CONCENTRATION FOR PERSONS UNDER AGE 21.—The State enacts and enforces a law providing that any person under age 21 with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated or driving under the influence of alcohol, and further provides for a minimum suspension of the person's driver's license for not less than 30 days.

''(E) SELF-SUSTAINING DRUNK DRIVING PREVENTION PROGRAM.—The State provides for a self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

''(F) REDUCING DRIVING WITH A SUSPENDED LICENSE.—The State enacts and enforces a law to reduce driving with a suspended license. Such law, as determined by the Secretary, may require a 'zebra' stripe that is clearly visible on the license plate of any motor vehicle owned and operated by a driver with a suspended license.

''(G) EFFECTIVE DWI TRACKING SYSTEM.—The State demonstrates an effective driving while intoxicated (DWI) tracking system. Such a system, as determined by the Secretary, may include data covering arrests, case prosecutions, court dispositions and sanctions, and provide for the linkage of such data and traffic records systems to appropriate jurisdictions and offices within the State.

''(H) ASSESSMENT OF PERSONS CONVICTED OF ABUSE OF CONTROLLED SUBSTANCES; ASSIGNMENT OF TREATMENT FOR ALL DWI/DUI OFFENDERS.—The State provides for assessment of individuals convicted of driving while intoxicated or driving under the influence of alcohol or controlled substances, and for the assignment of appropriate treatment.

''(I) USE OF PASSIVE ALCOHOL SENATORS.—The State provides for a program to acquire passive alcohol sensors to be used by police officers in detecting persons who operate motor vehicles while under the influence of alcohol, and to train police officers in the use of that equipment.

''(J) EFFECTIVE PENALTIES FOR PROVISION OR SALE OF ALCOHOL TO PERSONS UNDER 21.—The State enacts and enforces a law that provides for effective penalties or other consequences for the sale or provision of alcoholic beverages to any individual under 21 years of age. The Secretary shall determine what penalties are effective.

''(6) DEFINITIONS.—For the purpose of this subsection, the following definitions apply:

''(A) 'Alcoholic beverage' has the meaning such term has under section 158(c) of this title.

''(B) 'Controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

''(C) 'Motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

''(D) 'Open alcoholic beverage container' means any bottle, can, or other receptacle—

''(i) which contains any amount of an alcoholic beverage; and

''(ii)(I) which is open or has a broken seal, or

''(II) the contents of which are partially removed.

''(m) STATE HIGHWAY SAFETY DATA IMPROVEMENTS.—The Secretary shall make a grant to a State that takes effective actions to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the State's data needed to identify priorities within State and local highway and traffic safety programs, to evaluate the effectiveness of such efforts, and to link these State data systems, including traffic records, together and with other data systems within the State, such as systems that contain medical and economic data:

''(1) FIRST-YEAR GRANT ELIGIBILITY.—A State is eligible for a first-year grant under this subsection in a fiscal year if such State either:

''(A) Demonstrates, to the satisfaction of the Secretary, that it has—

''(i) established a Highway Safety Data and Traffic Records Coordinating Committee with a multi-disciplinary membership including the administrators, collectors, and users of such data (including the public health, injury control, and motor carrier communities) of highway safety and traffic records databases;

''(ii) completed within the preceding 5 years a highway safety data and traffic records assessment or audit of its highway safety data and traffic records system; and

''(iii) initiated the development of a multi-year highway safety data and traffic records strategic plan to be approved by the Highway Safety Data and Traffic Records Coordinating Committee that identifies and prioritizes its highway safety data and traffic records needs and goals, and that identifies performance-based measures by which progress toward those goals will be determined; or

''(B) Provides, to the satisfaction of the Secretary—

''(i) certification that it has met the provisions outlined in clauses (A)(i) and (A)(ii) of subparagraph (A) of this paragraph;

''(ii) a multi-year plan that identifies and prioritizes the State's highway safety data and traffic records needs and goals, that specifies how its incentive funds for the fiscal year will be used to address those needs and the goals of the plan, and that identifies performance-based measures by which progress toward those goals will be determined; and

''(iii) certification that the Highway Safety Data and Traffic Records Coordinating Committee continues to operate and supports the multi-year plan described in clause (B)(ii) of this subparagraph.

''(2) FIRST-YEAR GRANT AMOUNT.—The amount of a first-year grant made for State highway safety data and traffic records improvements for any fiscal year to any State eligible for such a grant under subparagraph (1)(A) of paragraph (A) of this subsection shall equal $1,000,000, subject to the availability of appropriations, and for any State eligible for such a grant under subparagraph (1)(B) of this subsection shall equal a proportional amount of the amount apportioned to the State for fiscal year 1997 under section 402 of this title, except that no State shall receive less than $250,000, subject to the availability of appropriations. The Secretary may award a grant of up to $25,000 for one year to any State that does not meet the criteria established in paragraph (1). The grant may only be used to conduct activities needed to enable that State to qualify for first-year funding to begin in the next fiscal year.

''(3) STATE HIGHWAY SAFETY DATA AND TRAFFIC RECORDS IMPROVEMENTS; SUCCEEDING-YEAR GRANTS.—A State shall be eligible for a grant in any fiscal year succeeding the first fiscal year in which the State receives a State highway safety data and traffic records grant if the State, to the satisfaction of the Secretary:

''(A) Submits or updates a multi-year plan that identifies and prioritizes the State's highway safety data and traffic records needs and goals, that specifies how its incentive funds for the fiscal year will be used to address those needs and the goals of the plan, and that identifies performance-based measures by which progress toward those goals will be determined;

''(B) Certifies that its Highway Safety Data and Traffic Records Coordinating Committee continues to support the multi-year plan; and

''(C) Reports annually on its progress in implementing the multi-year plan.

''(4) SUCCEEDING-YEAR GRANT AMOUNTS.—The amount of a succeeding-year grant made for State highway safety data and traffic records improvements for any fiscal year to any State that is eligible for such a grant shall equal a proportional amount of the amount apportioned to the State for fiscal year 1997 under section 402 of this title, except that no State shall receive less than $225,000, subject to the availability of appropriations.''.

(g) OCCUPANT PROTECTION PROGRAM.—

(1) IN GENERAL.—Section 410 of title 23, United States Code, is amended to read as follows:

''§ 410. Safety belts and occupant protection program

''The Secretary shall make basic grants to those States that adopt and implement effective programs to reduce highway deaths and injuries resulting from persons riding unrestrained or improperly restrained in motor vehicles. A State may establish its eligibility for one or both of the grants by adopting or demonstrating the following to the satisfaction of the Secretary:

''(1) BASIC GRANT A.—At least 4 of the following:

''(A) SAFETY BELT USE LAW FOR ALL FRONT SEAT OCCUPANTS.—The State has in effect a safety belt use law that makes unlawful throughout the State the operation of a passenger motor vehicle whenever a person in the front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly secured about the person's body.

''(B) PRIMARY SAFETY BELT USE LAW.—The State provides for primary enforcement of its safety belt use law.

''(C) CHILD PASSENGER PROTECTION LAW.—The State has in effect a law that requires minors who are riding in a passenger motor vehicle to be properly secured in a child safety seat or other appropriate restraint system.

''(D) CHILD OCCUPANT PROTECTION EDUCATION PROGRAM.—The State demonstrates implementation of a statewide comprehensive child occupant protection education program that includes education about proper seating positions for children in air bag equipped motor vehicles and instruction on how to reduce the improper use of child restraints systems. The states are to submit to the Secretary an evaluation or report on the effectiveness of the programs at least three years after receipt of the grant.

''(E) MINIMUM FINES.—The State requires a minimum fine of at least $25 for violations of its safety belt use law and a minimum fine of at least $25 for violations of its child passenger protection law.

''(F) SPECIAL TRAFFIC ENFORCEMENT PROGRAM.—The State demonstrates implementation of a statwide Special Traffic Enforcement Program for occupant protection that emphasizes publicity for the program.

''(2) BASIC GRANT B.—Both of the following:

''(A) STATE SAFETY BELT USE RATE.—The State demonstrates a statewide safety belt use rate in both front outboard seating positions in all passenger motor vehicles of 80 percent or higher in each of the first 3 years a grant under this paragraph is received, and of 85 percent or higher in each of the fourth, fifth, and sixth years a grant under this paragraph is received.

''(B) SURVEY METHOD.—The State follows safety belt use survey methods which conform to guidelines issued by the Secretary ensuring that such measurements are accurate and representative.

''(3) BASIC GRANT AMOUNT.—The amount of each basic grant for which a State qualifies under this subsection for any fiscal year shall equal up to 20 percent of the amount apportioned to the State for fiscal year 1997 under section 402 of this title.

''(4) OCCUPANT PROTECTION PROGRAM: SUPPLEMENTAL GRANTS.—During the period in which a State is eligible for a basic grant under this subsection, the State shall be eligible to receive a supplemental grant in a fiscal year of up to 5 percent of the amount apportioned to the State in fiscal year 1997 under section 402 of this title. The State may receive a separate supplemental grant for meeting each of the following criteria:

''(A) PENALTY POINTS AGAINST A DRIVER'S LICENSE FOR VIOLATIONS OF CHILD PASSENGER PROTECTION REQUIREMENTS.—The State has in effect a law that requires the imposition of penalty points against a driver's license for violations of child passenger protection requirements.

''(B) ELIMINATION OF NON-MEDICAL EXEMPTIONS TO SAFETY BELT AND CHILD PASSENGER PROTECTION LAWS.—The State has in effect safety belt and child passenger protection laws that contain no nonmedical exemptions.

(C) SAFETY BELT USE IN REAR SEATS.—The State has in effect a law that requires safety belt use by all rear-seat passengers in all passenger motor vehicles with a rear seat.

''(5) DEFINITIONS.—As used in this subsection—

''(A) 'child safety seat' means any device except safety belts, designed for use in a motor vehicle to restrain, seat, or position children who weigh 50 pounds or less.

''(B) 'Motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

''(C) 'Multipurpose passenger vehicle' means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed either on a truck chassis or with special features for occasional off-road operation.

''(D) 'Passenger car' means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

''(E) 'Passenger motor vehicle' means a passenger car or a multipurpose passenger motor vehicle.

''(F) 'Safety belt' means—

''(i) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

''(ii) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 4 of that chapter is amended by striking the item relating to section 410 and inserting the following:

''410. Safety belts and occupant protection program''.

(h) DRUGGED DRIVER RESEARCH AND DEMONSTRATION PROGRAM.—Section 403(b) of title 23, United States Code, is amended—

(1) by inserting ''(1)'' before ''In addition'';

(2) by striking ''is authorized to'' and inserting ''shall'';

(3) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(4) by inserting after subparagraph (B), as redesignated, the following:

''(C) Measures that may deter drugged driving.''.

SEC. 102. NATIONAL DRIVER REGISTER.

(a) TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.—Section 30302 is amended by adding at the end thereof the following:

''(e) TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.—(1) The Secretary may enter into an agreement with an organization that represents the interests of the States to manage, administer, and operate the National Driver Register's computer timeshare and user assistance functions. If the Secretary decides to enter into such an agreement, the Secretary shall ensure that the management of these functions is compatible with this chapter and the regulations issued to implement this chapter.

''(2) Any transfer of the National Driver Register's computer timeshare and user assistance functions to an organization that represents the interests of the States shall begin only after a determination is made by the Secretary that all States are participating in the National Driver Register's 'Problem Driver Pointer System' (the system used by the Register to effect the exchange of motor vehicle driving records), and that the system is functioning properly.

''(3) The agreement entered into under this subsection shall include a provision for a transition period sufficient to allow the States to make the budgetary and legislative changes they may need to pay fees charged by the organization representing their interests for their use of the National Driver Register's computer timeshare and user assistance functions. During this transition period, the Secretary (through the National Highway Traffic Safety Administration) shall continue to fund these transferred functions.

''(4) The total of the fees charged by the organization representing the interests of the States in any fiscal year for the use of the National Driver Register's computer timeshare and user assistance functions shall not exceed the total cost to the organization for performing these functions in such fiscal year.

''(5) Nothing in this subsection shall be construed to diminish, limit, or otherwise affect the authority of the Secretary to carry out this chapter.''.

(b) ACCESS TO REGISTER INFORMATION.—Section 30305(b) is amended by—

(1) by striking ''request.'' in paragraph (2) and inserting the following: ''request, unless the information is about a revocation or suspension still in effect on the date of the request'';

(2) by inserting after paragraph (6) the following:

''(7) The head of a Federal department or agency that issues motor vehicle operator's licenses may request the chief driver licensing official of a State to obtain information under subsection (a) of this section about an individual applicant for a motor vehicle operator's license from such department or agency. The department or agency may receive the information, provided it transmits to the Secretary a report regarding any individual who is denied a motor vehicle operator's license by that department or agency for cause; whose motor vehicle operator's license is revoked, suspended or canceled by that department or agency for cause; or about whom the department or agency has been notified of a conviction of any of the motor vehicle-related offenses or comparable offenses listed in subsection 30304(a)(3) and over whom the department or agency has licensing authority. The report shall contain the information specified in subsection 30304(b).

''(8) The head of a Federal department or agency authorized to receive information regarding an individual from the Register under this section may request and receive such information from the Secretary.'';

(3) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10); and

(4) by striking ''paragraph (2)'' in paragraph (10), as redesignated, and inserting ''subsection (a) of this section''.

SEC. 103. AUTHORIZATIONS OF APPROPRIATIONS.

(a) HIGHWAY SAFETY PROGRAMS.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) CONSOLIDATED STATE HIGHWAY SAFETY PROGRAMS.—

(A) For carrying out the State and Community Highway Safety Program under section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration, except for the incentive programs under subsection (l) of that section—

(i) $117,858,000 for fiscal year 1998;

(ii) $123,492,000 for fiscal year 1999;

(iii) $126,877,000 for fiscal year 2000;

(iv) $130,355,000 for fiscal year 2001;

(v) $133,759,000 for fiscal year 2002; and

(vi) $141,803,000 for fiscal year 2003.

(B) To carry out the alcohol-impaired driving countermeasures incentive grant provisions of section 402(l) of title 23, United States Code, by the National Highway Traffic Safety Administration—

(i) $30,570,000 for fiscal year 1998;

(ii) $28,500,000 for fiscal year 1999;

(iii) $29,273,000 for fiscal year 2000;

(iv) $30,065,000 for fiscal year 2001;

(v) $38,743,000 for fiscal year 2002; and

(vi) $39,815,000 for fiscal year 2003. Amounts made available to carry out subsection (l) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (l) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(C) To carry out the occupant protection program incentive grant provisions of section 410 of title 23, United States Code, by the National Highway Traffic Safety Administration—

(i) $13,950,000 for fiscal year 1998;

(ii) $14,618,000 for fiscal year 1999;

(iii) $15,012,000 for fiscal year 2000;

(iv) $15,418,000 for fiscal year 2001;

(v) $17,640,000 for fiscal year 2002; and

(vi) $17,706,000 for fiscal year 2003. Amounts made available to carry out subsection (m) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (m) to subsections (l), (n), and (o) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(D) To carry out the State highway safety data improvements incentive grant provisions of subsection 402(n) of title 23, United States Code, by the National Highway Traffic Safety Administration—

(i) $8,370,000 for fiscal year 1998;

(ii) $8,770,000 for fiscal year 1999;

(iii) $9,007,000 for fiscal year 2000; and

(iv) $9,250,000 for fiscal year 2001. Amounts made available to carry out subsection (n) are authorized to remain available until expended.

(E) To carry out the drugged driving research and demonstration programs of section 403(b)(1) of title 23, United States Code, by the National Highway Traffic Safety Administration, $2,000,000 for each of fiscal years 1999, 2000, 2001, 2002, and 2003.

Amounts made available to carry out subsection (o) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (o) to subsections (l), (m), and (n) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(2) SECTION 403 HIGHWAY SAFETY AND RESEARCH.—For carrying out the functions of the Secretary, by the National Highway Traffic Safety Administration, for highway safety under section 403 of title 23, United States Code, there are authorized to be appropriated $60,100,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002, and $61,700,000 for fiscal year 2003.

(3) PUBLIC EDUCATION EFFORT.—Out of funds made available for carrying out programs under section 403 of title 23, United States Code, for each of fiscal years 1998, 1999, 2000, 2001, 2002, and 2003, the Secretary of Transportation shall obligate at least $500,000 to educate the motoring public on how to share the road safely with commercial motor vehicles.

(4) NATIONAL DRIVER REGISTER.—For carrying out chapter 303 (National Driver Register) of title 49, United States Code, by the National Highway Traffic Safety Administration—

(i) $1,605,000 for fiscal year 1998;

(ii) $1,680,000 for fiscal year 1999;

(iii) $1,726,000 for fiscal year 2000;

(iv) $1,772,000 for fiscal year 2001;

(v) $1,817,000 for fiscal year 2002; and

(vi) $1,872,000 for fiscal year 2003.

SEC. 104. AIRBAGS.

(a) RULEMAKING PROCEDURE REQUIRED FOR DEPLOYMENT THRESHOLD DETERMINATION.—Before establishing a threshold for the deployment on impact of a passive passenger restraint system in passenger motor vehicles under any provision of law, the Secretary shall provide notice and an opportunity for public comment.

(b) DEPARTMENT OF TRANSPORTATION TO DETERMINE ELIGIBILITY FOR ON/OFF SWITCH.—If the Secretary of Transportation, under any provision of law, permits the employment of a device or switch to activate or deactivate a passive passenger restraint system installed in passenger motor vehicles and establishes criteria for the determination of what individuals or classes of individuals are eligible to use that device or switch, then that determination shall be made by the Secretary.

SEC. 105. PROTECTION OF CHILDREN FROM AIRBAG HARM.

(a) SUSPENSION OF UNBELTED BARRIER TESTING.—The provision in Federal Motor Vehicle Safety Standard No. 208 set forth at section 571.208 of the Department of Transportation Regulations (49 C.F.R. 571.208) requiring air bag-equipped vehicles to be crashed into a barrier using unbelted 50th percentile adult male dummies is hereby suspended.

(b) RULEMAKING TO PROTECT CHILDREN.—

(1) IN GENERAL.—Not later than June 1, 1998, the Secretary of Transportation shall issue a notice of proposed rulemaking to amend and improve the occupant protection provided by Federal Motor Vehicle Safety Standard No. 208. The notice shall propose that air bags provide protection to individuals according to the following priorities:

(A) FIRST PRIORITY.—To minimize the risk of harm to children from air bags.

(B) SECOND PRIORITY.—To improve protection for belted occupants.

(C) THIRD PRIORITY.—To protect unbelted occupants to the extent reasonable and practicable, consistent with minimizing the risk to children.

(2) METHODS TO ENSURE PROTECTION.—Notwithstanding subsection (a), the notice required by paragraph (a) may include such static and dynamic tests as the Secretary determines to be reasonable, practicable, and appropriate to ensure the safety of children, especially those who are unbelted and out of position, as well as the safety of other vehicle occupants, consistent with the priorities set forth in paragraph (1).

(3) FINAL RULE.—The Secretary shall complete the rulemaking required by this subsection by issuing, not later than June 1, 1999, a final rule consistent with paragraphs (1) and (2) of this subsection. The Secretary may extend the period for issuing the final rule for not more than 6 months. If the Secretary extends that period, then the Secretary shall state the reasons for the extension in the notice of extension.

TITLE II—HAZARDOUS MATERIALS TRANSPORTATION REAUTHORIZATION

SEC. 201. FINDINGS AND PURPOSES; DEFINITIONS.

(a) FINDINGS AND PURPOSES.—Section 5101 is amended to read as follows:

"§ 5101. Findings and purposes

''(a) FINDINGS.—The Congress finds with respect to hazardous materials transportation that—

''(1) approximately 4 billion tons of regulated hazardous materials are transported each year and that approximately 500,000 movements of hazardous materials occur each day, according to the Department of Transportation estimates;

''(2) accidents involving the release of hazardous materials are a serious threat to public health and safety;

''(3) many States and localities have enacted laws and regulations that vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers that attempt to comply with multiple and conflicting registration, permitting, routings, notification, loading, unloading, incidental storage, and other regulatory requirements;

''(4) because of the potential risks to life, property and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials, including loading, unloading, and incidental storage, is necessary and desirable;

''(5) in order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable;

''(6) in order to provide reasonable, adequate, and cost-effective protection from the risks posed by the transportation of hazardous materials, a network of adequately trained State and local emergency response personnel is required;

''(7) the movement of hazardous materials in commerce is necessary and desirable to maintain economic vitality and meet consumer demands, and shall be conducted in a safe and efficient manner;

''(8) primary authority for the regulation of such transportation should be consolidated in the Department of Transportation to ensure the safe and efficient movement of hazardous materials in commerce; and

''(9) emergency response personnel have a continuing need for training on responses to releases of hazardous materials in transportation and small businesses have a continuing need for training on compliance with hazardous materials regulations.

''(b) PURPOSES.—The purposes of this chapter are—

''(1) to ensure the safe and efficient transportation of hazardous materials in intrastate, interstate, and foreign commerce, including the loading, unloading, and incidental storage of hazardous material;

''(2) to provide the Secretary with preemption authority to achieve uniform regulation of hazardous material transportation, to eliminate inconsistent rules that apply differently from Federal rules, to ensure efficient movement of hazardous materials in commerce, and to promote the national health, welfare, and safety; and

''(3) to provide adequate training for public sector emergency response teams to ensure safe responses to hazardous material transportation accidents and incidents.''.

(b) DEFINITIONS.—Section 5102 is amended by—

(1) striking paragraph (1) and inserting the following:

''(1) 'commerce' means trade or transportation in the jurisdiction of the United States—

''(A) between a place in a State and a place outside of the State;

''(B) that affects trade or transportation between a place in a State and a place outside of the State; or

''(C) on a United States-registered aircraft.'';

(2) by striking paragraphs (3) and (4) and inserting the following:

''(3) 'hazmat employee' means an individual who—

''(A) is—

''(i) employed by a hazmat employer,

''(ii) self-employed, or

''(iii) an owner-operator of a motor vehicle; and

''(B) during the course of employment—

''(i) loads, unloads, or handles hazardous material;

''(ii) manufactures, reconditions, or tests containers, drums, or other packagings represented as qualified for use in transporting hazardous material;

''(iii) performs any function pertaining to the offering of hazardous material for transportation;

''(iv) is responsible for the safety of transporting hazardous material; or

''(v) operates a vehicle used to transport hazardous material.

''(4) 'hazmat employer' means a person who—

''(A) either—

''(i) is self-employed,

''(ii) is an owner-operator of a motor vehicle; and

''(iii) has at least one employee; and

''(B) performs a function, or uses at least one employee, in connection with—

''(i) transporting hazardous material in commerce;

''(ii) causing hazardous material to be transported in commerce, or

''(iii) manufacturing, reconditioning, or testing containers, drums, or other

packagings represented as qualified for use in transporting hazardous material.'';

(3) by striking ''title.'' in paragraph (7) and inserting ''title, except that a freight forwarder is included only in performing a function related to highway transportation'';

(4) by redesignating paragraphs (9) through (13) as paragraphs (12) through (16);

(5) by inserting after paragraph (8) the following:

''(9) 'out-of-service order' means a mandate that an aircraft, vessel, motor vehicle, train, other vehicle, or a part of any of these, not be moved until specified conditions have been met.

''(10) 'package' or 'outside package' means a packaging plus its contents.

''(11) 'packaging' means a receptacle and any other components or materials necessary for the receptacle to perform its containment function in conformance with the minimum packaging requirements established by the Secretary of Transportation.'';

and

(6) by striking ''or transporting hazardous material to further a commercial enterprise;'' in paragraph 12(A), as redesignated by paragraph (4) of this subsection, and inserting a comma and ''transporting hazardous material to further a commercial enterprise, or manufacturing, reconditioning, or testing containers, drums, or other packagings represented as qualified for use in transporting hazardous material''.

(c) CLERICAL AMENDMENT.—The chapter analysis of chapter 51 is amended by striking the item relating to section 5101 and inserting the following:

''5101. Findings and purposes''.

SEC. 202. HANDLING CRITERIA REPEAL.

Section 5106 is repealed and the chapter analysis of chapter 51 is amended by striking the item relating to that section

SEC. 203 HAZMAT EMPLOYEE TRAINING REQUIREMENTS.

Section 5107(f)(2) is amended by striking ''and sections 5106, 5108(a)–(g)(1) and (h), and''.

SEC. 204. REGISTRATION.

Section 5108 is amended by

(1) by striking subsection (b)(1)(C) and inserting the following:

''(C) each State in which the person carries out any of the activities.'';

(2) by striking subsection (c) and inserting the following:

''(c) FILING SCHEDULE.—Each person required to file a registration statement under subsection (a) of this section shall file that statement annually in accordance with regulations issued by the Secretary.'';

(3) by striking ''552(f)'' in subsection (f) and inserting ''552(b)'';

(4) by striking ''may'' in subsection (g)(1) and inserting ''shall''; and

(5) by inserting ''or an Indian tribe,'' in subsection (1)(2)(B) after ''State,''.

SEC. 205. SHIPPING PAPER RETENTION.

Section 5110(e) is amended by striking the first sentence and inserting ''After expiration of the requirement in subsection (c) of this section, the person who provided the shipping paper and the carrier required to maintain it under subsection (a) of this section shall retain the paper or an electronic image thereof, for a period of 1 year after the shipping paper was provided to the carrier, to be accessible through their respective principal places of business.''.

SEC. 206. UNSATISFACTORY SAFETY RATING.

Section 5113(d) is amended by striking ''Secretary, in consultation with the Interstate Commerce Commission,'' and inserting ''Secretary''.

SEC. 207. PUBLIC SECTOR TRAINING CURRICULUM.

Section 5115 is amended by—

(1) by striking ''DEVELOPMENT AND UPDATING.—Not later than November 16, 1992, in'' in subsection (a) and inserting ''UPDATING.—In'';

(2) by striking ''develop and'' in the first sentence of subsection (a);

(3) by striking the second sentence of subsection (a);

(4) by striking ''developed'' in the first sentence of subsection (b);

(5) by inserting ''or involving an alternative fuel vehicle'' after ''material'' in subparagraphs (A) and (B) of subsection (b)(1); and

(6) by striking subsection (d) and inserting the following:

''(d) DISTRUBUTION AND PUBLICATION.—With the national response team, the Secretary of Transportation may publish a list of programs that use a course developed under this section for training public sector employees to respond to an accident or incident involving the transportation of hazardous materials.''.

SEC. 208. PLANNING AND TRAINING GRANTS.

Section 5116 is amended by—

(1) by striking ''of'' in the second sentence of subsection (e) and inserting ''received by'';

(2) by striking subsection (f) and inserting the following:

''(f) MONITORING AND TECHNICAL ASSISTANCE.—The Secretary of Transportation shall monitor public sector emergency response planning and training for an accident or incident involving hazardous material, Considering the results of the monitoring, the Secretary shall provide technical assistance to a State, political subdivision of a State and Indian tribe for carrying out emergency response training and planning for an accident or incident involving hazardous material and shall coordinate the assistance using the existing coordinating mechanisms of the National Response Team for Oil and Hazardous Substances and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee.''; and

(3) by adding at the end thereof the following:

''(l) SMALL BUSINESSES.—The Secretary may authorize a State or Indian tribe receiving a grant under this section to use up to 25 percent of the amount of the grant to assist small businesses in complying with regulations issued under this chapter.''.

SEC. 209. SPECIAL PERMITS AND EXCLUSIONS.

(a) Section 5117 is amended by—

(1) by striking the section caption and inserting the following:

''§ 5117. Special permits and exclusions'';

(2) by striking ''exemption'' each place it appears and inserting ''special permit'';

(3) by inserting ''authorizing variances'' after ''special permit'' the first place it appears; and

(4) by striking ''2'' and inserting ''4'' in subsection (a)(2).

(b) Section 5119(c) is amended by adding at the end thereof the following:

''(4) Pending promulgation of regulations under this subsection, States may participate in a program of uniform forms and procedures recommended by the working group under subsection (b).''

(c) The chapter analysis for chapter 51 is amended by striking the item related to section 5117 and inserting the following:

''5117. Special permits and exclusions''.

SEC. 210. ADMINISTRATION.

(a) Section 5121 is amended by striking subsections (a), (b), and (c) and redesignating subsections (d) and (e) as subsections (a) and (b).

(b) Section 5122 is amended by redesignating subsections (a), (b), and (c) as subsections (d), (e), and (f), and by inserting before subsection (d), as redesignated, the following:

''(a) GENERAL AUTHORITY.—To carry out this chapter, the Secretary of Transportation may investigate, make reports, issue subpoenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities. After notice and an opportunity for a hearing, the Secretary may issue an order requiring compliance with this chapter or a regulation prescribed under this chapter.

''(b) RECORDS, REPORTS, AND INFORMATION.—A person subject to this chapter shall—

''(1) maintain records, make reports, and provide information the Secretary by regulation or order requires; and

''(2) make the records, reports, and information available when the Secretary requests.

''(c) INSPECTION.—

''(1) The Secretary may authorize an officer, employee, or agent to inspect, at a reasonable time and in a reasonable way, records and property related to—

''(A) manufacturing, fabricating, marking, maintaining, reconditioning, repairing, testing, or distributing a packaging or a container for use by a person in transporting hazardous material in commerce; or

''(B) the transportation of hazardous material in commerce.

''(2) An officer, employee, or agent under this subsection shall display proper credentials when requested.''.

SEC. 211. COOPERATIVE AGREEMENTS.

Section 5121, as amended by section 310(a), is further amended by adding at the end thereof the following:

''(c) AUTHORITY FOR COOPERATIVE AGREEMENTS.—To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with a person, agency or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the State Department), an educational institution, or other entity to further the objectives of this chapter. The objectives of this chapter include the conduct of research, development, demonstration, risk assessment, emergency response planning and training activities.''.

SEC. 212. ENFORCEMENT.

Section 5122, as amended by section 310(b), is further amended by—

(1) by inserting ''inspect,'' after ''may'' in the first sentence of subsection (a);

(2) by striking the last sentence of subsection (a) and inserting: ''Except as provided in subsection (e) of this section, the Secretary shall provide notice and an opportunity for a hearing prior to issuing an order requiring compliance with this chapter or a regulation, order, special permit, or approval issued under this chapter.'';

(2) by redesignating subsections (d), (e) and (f) as subsections (f), (g) and (h), and inserting after subsection (c) the following:

''(d) OTHER AUTHORITY.—

''(1) INSPECTION.—During inspections and investigations, officers, employees, or agents of the Secretary may—

''(A) open and examine the contents of a package offered for, or in, transportation when—

''(i) the package is marked, labeled, certified, placarded, or otherwise represented as containing a hazardous material, or

''(ii) there is an objectively reasonable and articulable belief that the package may contain a hazardous material;

''(B) take a sample, sufficient for analysis, of material marked or represented as a hazardous material or for which there is an objectively reasonable and articulable belief that the material may be a hazardous material, and analyze that material;

''(C) when there is an objectively reasonable and articulable belief that an imminent hazard may exist, prevent the further transportation of the material until the hazardous qualities of that material have been determined; and

''(D) when safety might otherwise be compromised, authorize properly qualified personnel to conduct the examination, sampling, or analysis of a material.

''(2) NOTIFICATION.—No package opened pursuant to this subsection shall continue its transportation until the officer, employee, or agent of the Secretary—

''(A) affixes a label to the package indicating that the package was inspected pursuant to this subsection; and

''(B) notifies the shipper that the package was opened for examination.

''(e) EMERGENCY ORDERS.—

''(1) If, through testing, inspection, investigation, or research carried out under this chapter, the Secretary decides that an unsafe condition or practice, or a combination of them, causes an emergency situation involving a hazard of death, personal injury, or significant harm to the environment, the Secretary may immediately issue or impose restrictions, prohibitions, recalls, or out-of-service orders, without notice or the opportunity for a hearing, that may be necessary to abate the situation.

''(2) The Secretary's action under this subsection must be in a written order describing the condition or practice, or combination of them, that causes the emergency situation; stating the restrictions, prohibitions, recalls, or out-of-service orders being issued or imposed; and prescribing standards and procedures for obtaining relief from the order.

''(3) After taking action under this subsection, the Secretary shall provide an opportunity for review of that action under section 554 of title 5.

''(4) If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the petition was filed, the action will cease to be effective at the end of that period unless the Secretary determines in writing that the emergency situation still exists.''

SEC. 213. PENALTIES.

''(a) Section 5123(a)(1) is amended by striking the first sentence and inserting the following: ''A person that knowingly violates this chapter or a regulation, order, special permit, or approval issued under this chapter is liable to the United States Government for a civil penalty of at least $250 but not more than $27,500 for each violation.''.

''(b) Section 5123(c)(2) is amended to read as follows:

''(2) with respect to the violator, the degree of culpability, any good-faith efforts to comply with the applicable requirements, any history of prior violations, any economic benefit resulting from the violation, the ability to pay, and any effect on the ability to continue to do business; and''.

(c) Section 5124 is amended to read as follows:

''§ 5124. Criminal penalty

''(a) IN GENERAL.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, shall be fined under title 18, imprisoned for not more than 5 years, or both.

''(b) AGGRAVATED VIOLATIONS.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, and thereby causing the release of a hazardous material, shall be fined under title 18, imprisoned for not more than 20 years, or both.''.

SEC. 214. PREEMPTION.

(a) REQUIREMENTS CONTRARY TO PURPOSES OF CHAPTER.—Section 5125(a)(2) is amended by inserting a comma and ''the purposes of this chapter,'' after ''this chapter'' the first place it appears.

(b) DEADWOOD.—Section 5125(b)(2) is amended by striking ''prescribes after November 16, 1990.'' and inserting ''prescribes.''.

(c) INDEPENDENT APPLICATION OF PREEMPTION STANDARDS.—Section 5125 is amended by adding at the end thereof the following:

''(h) INDEPENDENT APPLICATION OF EACH STANDARD.—Each preemption standard in subsections (a), (b)(1), (c), and (g) of this section and section 5119(c)(2) is independent in its application to a requirement of any State, political subdivision of a State, or Indian tribe.''.

SEC. 215. JUDICIAL REVIEW.

(a) Chapter 51 is amended by redesignating section 5127 as section 5128, and by inserting after section 5126 the following new section:

''§ 5127. Judicial review

''(a) FILING AND VENUE.—Except as provided in section 20114(c) of this title, a person disclosing a substantial interest in a final order issued, under the authority of section 5122 or 5123 of this title, by the Secretary of Transportation, the Administrators of the Research and Special Programs Administration, the Federal Aviation Administration, or the Federal Highway Administration, or the Commandant of the United States Coast Guard ('modal Administrator'), with respect to the duties and powers designated to be carried out by the Secretary under this chapter, may apply for review in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the order is issued. The court may allow the petition to be filed after the 60th day only if there are reasonable grounds for not filing by the 60th day.

''(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary or the modal Administrator, as appropriate. The Secretary or the modal Administrator shall file with the court a record of any proceeding in which the order was issued, as provided in section 2112 of title 28.

''(c) AUTHORITY OF COURT.—When the petition is sent to the Secretary or the modal Administrator, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order and may order the Secretary or the modal Administrator to conduct further proceedings. After reasonable notice to the Secretary or the modal Administrator, the court may grant interim relief by staying the order or taking other appropriate action when good cause for its action exists. Findings of fact by the Secretary or the modal Administrator, if supported by substantial evidence, are conclusive.

''(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final order under this section, the court may consider an objection to a final order of the Secretary or the modal Administrator only if the objection was made in the course of a proceeding or review conducted by the Secretary, the modal Administrator, or an administrative law judge, or if there was a reasonable ground for not making the objection in the proceeding.

''(e) SUPREME COURT REVIEW.—A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28, United States Code.''.

(b) The chapter analysis for chapter 51 is amended by striking the item related to section 5127 and inserting the following:

''5127. Judicial review.''.
''5128. Authorization of appropriations.''.

SEC. 216. HAZARDOUS MATERIAL TRANSPORTATION REAUTHORIZATION.

(a) IN GENERAL.—Chapter 51, as amended by section 215 of this Act, is amended by redesignating section 5128 as section 5129 and by inserting after section 5127 the following:

''§ 5128. High risk hazardous material; motor carrier safety study

''(a) STUDY.—The Secretary of Transportation shall conduct a study—

''(1) to determine the safety benefits and administrative efficiency of implementing a Federal permit program for high risk hazardous material carriers;

''(2) to identify and evaluate alternative regulatory methods and procedures that may improve the safety of high risk hazardous material carriers and shippers;

''(3) to examine the safety benefits of increased monitoring of high risk hazardous material carriers, and the costs, benefits, and procedures of existing State permit programs;

''(4) to make such recommendations as may be appropriate for the improvement of uniformity among existing State permit programs; and

''(5) to assess the potential of advanced technologies for improving the assessment of high risk hazardous material carriers' compliance with motor carrier safety regulations.

''(b) TIMEFRAME.—The Secretary shall begin the study required by subsection (a) within 6 months after the date of enactment of the Intermodal Transportation Safety Act of 1997 and complete it within 30 months.

''(c) REPORT.—The Secretary shall report the findings of the study required by subsection (a), together with such recommendations as may be appropriate, within 36 months after the date of enactment of that Act.''.

(b) SECTION 5109 REGULATIONS TO REFLECT STUDY FINDINGS.—Section 5109(h) is amended by striking ''not later than November 16, 1991.'' and inserting ''based upon the findings of the study required by section 5128(a).''.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 51, as amended by section 315, is amended by striking the item relating to section 5128 and inserting the following:

''5128. High risk hazardous material; motor carrier safety study
''5129. Authorization of appropriations''.

SEC. 217. AUTHORIZATION OF APPROPRIATIONS.

Section 5129, as redesignated, is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GENERAL.—There are authorized to be appropriated to the Secretary of Transportation to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, and 5116) not more than—

''(1) $15,492,000 for fiscal year 1998;
''(2) $16,000,000 for fiscal year 1999;
''(3) $16,500,000 for fiscal year 2000;
''(4) $17,000,000 for fiscal year 2001;
''(5) $17,500,000 for fiscal year 2002; and
''(6) $18,000,000 for fiscal year 2003.''; and

(2) by striking subsections (c) and (d) and inserting the following:

''(c) TRAINING CURRICULUM.—Not more than $200,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for each of the fiscal years ending September 30, 1999–2003, to carry out section 5115 of this title.

''(d) PLANNING AND TRAINING.—

''(1) Not more than $2,444,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999–2003, to carry out section 5116(a) of this title.

''(2) Not more than $3,666,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999–2003, to carry out section 5116(b) of this title.

''(3) Not more than $600,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999–2003, to carry out section 5116(f) of this title.''.

TITLE III—COMPREHENSIVE ONE-CALL NOTIFICATION

SEC. 301. FINDINGS.

The Congress finds that—

(1) unintentional damage to underground facilities during excavation is a significant cause of disruptions in telecommunications, water supply, electric power and other vital public services, such as hospital and air traffic control operations, and is a leading cause of natural gas and hazardous liquid pipeline accidents;

(2) excavation that is performed without prior notification to an underground facility operator or with inaccurate marking of such a facility prior to excavation can cause damage that results in fatalities, serious injuries, harm to the environment and disruption of vital services to the public; and

(3) protection of the public and the environment from the consequences of underground facility damage caused by excavations will be enhanced by a coordinated national effort to improve one-call notification programs in each State and the effectiveness and efficiency of one-call notification systems that operate under such programs.

SEC. 302. ESTABLISHMENT OF ONE-CALL NOTIFICATION PROGRAMS.

(a) IN GENERAL.—Subtitle III is amended by adding at the end thereof the following:

''CHAPTER 61. ONE-CALL NOTIFICATION PROGRAMS

''Sec.
''6101. Purposes.
''6102. Definitions.
''6103. Minimum standards for State one-call notification programs
''6104. Compliance with minimum standards
''6105. Review of one-call system best practices
''6106. Grants to States
''6107. Authorization of appropriations

'§ 6101. Purposes.

''The purposes of this chapter are—

''(1) to enhance public safety;

''(2) to protect the environment;

''(3) to minimize risks to excavators; and

''(4) to prevent disruption of vital public services,

by reducing the incidence of damage to underground facilities during excavation through the adoption and efficient implementation by all States of State one-call notification programs that meet the minimum standards set forth under section 6103.

''§ 6102. Definitions.

''For purposes of this chapter—

''(1) ONE-CALL NOTIFICATION SYSTEM.—The term ''one-call notification system'' means a system operated by an organization that has as one of its purposes to receive notification from excavators of intended excavation in a specified area in order to disseminate such notification to underground facility operators that are members of the system so that such operators can locate and mark their facilities on order to prevent damage to underground facilities in the course of such excavation.

''(2) STATE ONE-CALL NOTIFICATION PROGRAM—The term ''State one-call notification program'' means the State statutes, regulators, orders, judicial decisions, and other elements of law and policy in effect in a State that establish the requirements for the operation of one-call notification systems in such State.

''(3) STATE.—The term 'State' means a State, the District of Columbia, and Puerto Rico.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''§ 6103. Minimum standards for State one-call notification programs

(a) MINIMUM STANDARDS.—A State one-call notification program shall, at a minimum, provide for—

(1) appropriate participation by all under ground facility operators;

(2) appropriate participation by all excavators; and

''(3) flexible and effective enforcement under State law with respect to participation in, and use of, one-call notification systems.

''(b) APPROPRIATE PARTICIPATION.—In determining the appropriate extent of participation required for types of underground facilities or excavators under subsection (a), a State shall assess, rank, and take into consideration the risks to the public safety, the environment, excavators, and vital public services associated with—

''(1) damage to types of underground facilities; and

''(2) activities of types of excavators.

''(c) IMPLEMENTATION.—A State one-call notification program also shall, at a minimum, provide for—

''(1) consideration of the ranking of risks under subsection (b) in the enforcement of its provisions;

''(2) a reasonable relationship between the benefits of one-call notification and the cost of implementing and complying with the requirements of the State one-call notification program; and

''(3) voluntary participation where the State determines that a type of underground facility or an activity of a type of excavator poses a *de minimis* risk to public safety or the environment.

''(d) PENALTIES.—To the extent the State determines appropriate and necessary to achieve the purposes of this chapter, a State one-call notification program shall, at a minimum, provide for—

''(1) administrative or civil penalties commensurate with the seriousness of a violation by an excavator or facility owner of a State one-call notification program;

''(2) increased penalties for parties that repeatedly damage underground facilities because they fail to use one-call notification systems or for parties that repeatedly fail to provide timely and accurate marking after the required call has been made to a one-call notification system;

''(3) reduced or waived penalties for a violation of a requirement of a State one-call notification program that results in, or could result in, damage that is promptly reported by the violator;

''(4) equitable relief; and

''(5) citation of violations.

''§ 6104. Compliance with minimum standards

''(a) REQUIREMENT.—In order to qualify for a grant under section 6106, each State shall, within 2 years after the date of the enactment of the Intermodal Transportation Safety Act of 1997, submit to the Secretary a grant application under subsection (b).

''(b) APPLICATION.—

''(1) Upon application by a State, the Secretary shall review that State's one-call notification program, including the provisions for implementation of the program and the record of compliance and enforcement under the program.

''(2) Based on the review under paragraph (1), the Secretary shall determine whether the State's one-call notification program meets the minimum standards for such a program set forth in section 6103 in order to qualify for a grant under section 6106.

''(3) In order to expedite compliance under this section, the Secretary may consult with the State as to whether an existing State one-call notification program, a specific modification thereof, or a proposed State program would result in a positive determination under paragraph (2).

''(4) The Secretary shall prescribe the form of, and manner of filing, an application under this section that shall provide sufficient information about a State's one-call notification program for the Secretary to evaluate its overall effectiveness. Such information may include the nature and reasons for exceptions from required participation, the types of enforcement available, and such other information as the Secretary deems necessary.

''(5) The application of a State under paragraph (1) and the record of actions of the Secretary under this section shall be available to the public.

''(c) ALTERNATIVE PROGRAM.—A State may maintain an alternative once-call notification program if that program provides protection for public safety, the environment, or excavators that is equivalent to, or greater than, protection under a program that meets the minimum standards set forth in section 6103.

''(d) REPORT.—Within 3 years after the date of the enactment of the Intermodal Transportation Safety Act of 1997, the Secretary shall begin to include the following information in reports submitted under section 60124 of this title—

''(1) a description of the extent to which each State has adopted and implemented the minimum Federal standards under section 6103 or maintains an alternative program under subsection (c);

''(2) an analysis by the Secretary of the overall effectiveness of the State's one-call notification program and the one-call notification systems operating under such program in achieving the purposes of this chapter;

''(3) the impact of the State's decisions on the extent of required participation in one-call notification systems on prevention of damage to underground facilities; and

''(4) areas where improvements are needed in one-call notification systems in operation in the State.

The report shall also include any recommendations the Secretary determines appropriate. If the Secretary determines that the purposes of this chapter have been substantially achieved, no further report under this section shall be required.

''§ 6105. Review of one-call system best practices

''(a) STUDY OF EXISTING ONE-CALL SYSTEMS.—Except as provided in subsection (d), the Secretary, in consultation with other appropriate Federal agencies, State agencies, one-call notification system operators, underground facility operators, excavators, and other interested parties, shall undertake a study of damage prevention practices associated with existing one-call notification systems.

''(b) PURPOSE OF STUDY OF DAMAGE PREVENTION PRACTICES.—The purpose of the study is to assemble information in order to determine which existing one-call notification systems practices appear to be the most effective in preventing damage to underground facilities and in protecting the public, the environment, excavators, and public

service disruption. As part of the study, the Secretary shall at a minimum consider—

''(1) the methods used by one-call notification systems and others to encourage participation by excavators and owners of underground facilities;

''(2) the methods by which one-call notification systems promote awareness of their programs, including use of public service announcements and educational materials and programs;

''(3) the methods by which one-call notification systems receive and distribute information from excavators and underground facility owners;

''(4) the use of any performance and service standards to verify the effectiveness of a one-call notification system;

''(5) the effectiveness and accuracy of mapping used by one-call notification systems;

''(6) the relationship between one-call notification systems and preventing intentional damage to underground facilities;

* * * * *

sections 31137 and 31138) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person, who—

''(I) does not make that report;

''(II) does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered or;

''(III) does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $500 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed $5,000.

''(ii) Any such person, or an officer, agent, or employee of that person, who—

''(I) knowingly falsifies, destroys, mutilates, or changes a required report or record;

''(II) knowingly files a false report with the Secretary;

''(III) knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction; or

''(IV) knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each violation, provided that any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.''.

SEC. 414. INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT.

Chapter 317 is amended—

(1) by striking sections 31702, 31703, and 31708; and

(2) by striking the item relating to sections 31702, 31703, and 31708 in the chapter a analysis for that chapter.

SEC. 415. STUDY OF ADEQUACY OF PARKING FACILITIES.

The Secretary shall conduct studies to determine the location and quantity of parking facilities at commercial truck stops and travel plazas and public rest area that could be used by motor carriers to comply with Federal hours-of-service rules. Each study shall include an inventory of current facilities serving corridors of the National Highway System, analyze where specific shortages exist or are projected to exist, and propose a specific plan to reduce the shortages. The studies may be carried out in cooperation with research entities representing the motor carrier and travel plaza industry. The studies shall be recompleted no later than 36 months after enactment of this Act.

SEC. 416. NATIONAL MINIMUM DRINKING AGE—TECHNICAL CORRECTIONS

Section 158 of title 23, United States Code, is amenmded—

(1) by striking ''104(b)(2), 104(b)(5), and 104(b)(6)'' each place it appears in subsection (a) and inserting ''104(b)(3), and 104(b)(5)(B)''; and

(2) by striking subsection (b) and inserting the following:

''(b) AVAILABILITY OF WITHHELD FUNDS.—No funds withheld under this section from apportionment to any State after September 31, 1988, shall be available for apportionment to such State.''.

SEC. 3417. APPLICATION OF REGULATIONS.

(a) APPLICATION OF REGULATIONS TO CERTAIN COMMERCIAL MOTOR VEHICLES.—Section 31135 as redesignated, is amended by adding at the end thereof the following:

''(g) APPLICATION TO CERTAIN VEHICLES.—Effective 12 months after the date of enactment of the Intermodal Transportation Safety Act of 1997, regulations prescribed under this section shall apply to operators of commercial motor vehicles described in section 31132(1)(B) to the extent that those regulations did not apply to those operators before the day that is 12 months after such date of enactment, except to the extent that the Secretary determines, through a rulemaking proceeding, that it is appropriate to exempt such operations of commercial motor vehicles from the application of those regulations.''.

(b) DEFINITION.—Section 31301(4)(B) is amended to read as follows:

''(B) is designed or used to transport—

''(i) passengers for compensation, but does not include a vehicle providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places; or

''(ii) more than 15 passengers, including the driver, and not used to transport passengers for compensation; or''.

(c) APPLICATION OF REGULATIONS TO CERTAIN OPERATORS.—

(1) Chapter 313 is amended by adding at the end thereof the following:

''§ 31318. Application of regulations to certain operators

''Effective 12 months after the date of enactment of the Intermodal Transportation Safety Act of 1997, regulations prescribed under this chapter shall apply to operators of commercial motor vehicles described in section 31301(4)(B) to the extent that those regulations did not apply to those operators before the day that is 1 year after such date of enactment, except to the extent that the Secretary determines, after notice and opportunity for public comment, that it is appropriate to exempt such operators of commercial motor vehicles from the application of those regulations.''.

(d) DEADLINE FOR CERTAIN DEFINITIONAL REGULATIONS.—The Secretary shall issue regulations implementing the definition of commercial motor vehicles under section 31132(1)(B) and section 31301(4)(B) of title 49, United States Code, as amended by this Act within 12 months after the date of enactment of this Act.

SEC. 418. AUTHORITY OVER CHARTER BUS TRANSPORTATION.

Section 14501(a) is amended—

(1) by striking ''route or relating'' and inserting ''route;''; and

(2) by striking ''required.'' and inserting ''required; or to the authority to provide intrastate or interstate charter bus transportation.''.

SEC. 419. FEDERAL MOTOR CARRIER SAFETY INVESTIGATIONS.

The Department of Transportation shall maintain the level of Federal motor carrier safety investigators for border commercial vehicle inspections as in effect on September 30, 1997, or provide for alternative resources and mechanisms to ensure an equivalent level of commercial motor vehicle safety inspections. Such funds as are necessary to carry out this section shall be made available within the limitation on general operating expenses of the Department of Transportation.

SEC. 420. FOREIGN MOTOR CARRIER SAFETY FITNESS.

(a) IN GENERAL.—No later than 90 days after enactment of this Act, the Secretary of Transportation shall make a determination regarding the willingness and ability of any foreign motor carrier, the application for which has not been processed due to the moratorium on the granting of authority to foreign carriers to operate in the United States, to meet the safety fitness and other regulatory requirements under this title.

(b) REPORT.—Within 120 days after the date of enactment this Act, the Secretary of Transportation shall submit a report to the Senate Commerce, Science, and Transportation Committee and the House Transportation and Infrastructure Committee on the application of section 13902(c)(9) of title 49, United States Code. The report shall include—

(1) any findings made by the Secretary under subsection (a);

(2) information on which carriers have applied to the Department of Transportation under the section; and

(3) a description of the process utilized to respond to such applications and to certify the safety fitness of those carriers.

SEC. 421. COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Transportation may establish a Commercial Motor Vehicle Safety Advisory Committee to provide advice and recommendations on a range of regulatory issues. The members of the advisory committee shall be appointed by the Secretary from among individuals affected by rulemakings under consideration by the Department of Transportation.

(b) FUNCTION.—The Advisory Committee established under subsection (a) shall provide advice to the Secretary on commercial motor vehicle safety regulations and assist the Secretary in timely completion of ongoing rulemakings by utilizing negotiated rulemaking procedures.

SEC. 422. WAIVERS; EXEMPTIONS; PILOT PROGRAMS.

(a) WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS FOR CHAPTER 311.—Section 31136(e) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6); and

(2) by striking the subsection caption and paragraph (1) and inserting the following:

''(e) WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.—

''(1) IN GENERAL.—The Secretary shall, by regulation promulgated after notice and an opportunity for public comment and within 180 days after the date of enactment of the Intermodal Transportation Safety Act of 1997, establish procedures by which waivers, exemptions, and pilot programs under this section may be initiated. The regulation shall provide—

''(A) a process for the issuance of waivers or exemptions from any part of a regulation prescribed under this section; and

''(B) procedures for the conduct of pilot projects or demonstration programs to support the appropriateness of regulations, enforcement policies, waivers, or exemptions under this section.

''(2) WAIVERS.—The Secretary may grant a waiver that relieves a person from compliance in whole or in part with a regulation issued under this section if the Secretary determines that it is in the public interest to grant the waiver and that the waiver is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would obtain in the absence of the waiver—

''(A) for a period not in excess of 3 months;

''(B) limited in scope and circumstances;

''(C) for non-emergency and unique events; and

''(D) subject to such conditions as the Secretary may impose.

''(3) EXEMPTIONS.—The Secretary may grant an exemption in whole or in part from a regulation issued under this section to a class of persons, vehicles, or circumstances if the Secretary determines, after notice and opportunity for public comment, that it is in the public interest to grant the exemption and that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would obtain in the absence of the exemption. An exemption granted under this paragraph shall be in effect for a period of not more than 2 years, but may be renewed by the Secretary after notice and opportunity for public comment if the Secretary determines, based on the safety impact and results of the first 2 years of an exemption, that the extension is in the public interest and that the extension of the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would obtain in the absence of the extension.

''(4) PILOT PROGRAMS.—

''(A) IN GENERAL.—In carrying out this section, the Secretary is authorized to carry out pilot programs to examine innovative approaches or alternatives to regulations issued under this title.

''(B) REQUIREMENT FOR APPROVAL.—In carrying out a pilot project under this paragraph, the Secretary shall require, as a condition of approval of the project, that the safety measures in the project are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would otherwise be achieved through compliance with the standards prescribed under this title.

''(C) EXEMPTIONS.—A pilot project under this paragraph—

''(i) may exempt a motor carrier under the project from any requirement (or portion thereof) imposed under this title; and

''(ii) shall preempt any State or local regulation that conflicts with the pilot project during the time the pilot project is in effect.

''(D) REVOCATION OF EXEMPTION.—The Secretary shall revoke an exemption granted under subparagraph (C) if—

''(i) the motor carrier to which it applies fails to comply with the terms and conditions of the exemption; or

''(ii) the Secretary determines that the exemption has resulted in a lower level of safety than was maintained before the exemption was granted.''.

(b) WAIVERS EXEMPTIONS, AND PILOT PROGRAMS FOR CHAPTER 313.—Section 31315 is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''After notice''; and

(2) by adding at the end thereof the following: ''(b) WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.—

''(1) IN GENERAL.—The Secretary shall, by regulation promulgated after notice and an opportunity for public comment and within 180 days after the date of enactment of the Intermodal Transportation Safety Act of 1997, establish procedures by which waivers, exemptions, and pilot programs under this section may be initiated. The regulation shall provide—

''(A) a process for the issuance of waivers or exemptions from any part of a regulation prescribed under this section; and

''(B) procedures for the conduct of pilot projects or demonstration programs to support the appropriateness of regulations, enforcement policies, or exemption under this section.

''(2) WAIVERS.—The Secretary may grant a waiver that relieves a person from compliance in whole or in part with a regulation issued under this section if the Secretary determines that it is in the public interest to grant the waiver and that the waiver is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would obtain in the absence of the waiver—

''(A) for a period not in excess of 3 months;

''(B) limited in scope and circumstances;

''(C) for non-emergency and unique events; and

''(D) subject to such conditions as the Secretary may impose.

''(3) EXEMPTIONS.—The Secretary may grant an exemption in whole or in part from a regulation issued under this section to a class of persons, vehicles, or circumstances if the Secretary determines, after notice and opportunity for public comment, that it is in the public interest to grant the exemption and that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would obtain in the absence of the exemption. An exemption granted under this paragraph shall be in effect for a period of not more than 2 years, but may be renewed by the Secretary after notice and opportunity for public comment if the Secretary determines, based on the safety impact and results of the first 2 years of an exemption, that the extension is in the public interest and that the extension of the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would obtain in the absence of the extension.

''(4) PILOT PROGRAMS.—

''(A) IN GENERAL.—In carrying out this section, the Secretary is authorized to carry out pilot programs to examine innovative approaches or alternatives to regulations issued under this title.

''(B) REQUIREMENT FOR APPROVAL.—In carrying out a pilot project under this paragraph, the Secretary shall require, as a condition of approval of the project, that the safety measures in the project are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would otherwise be achieved through compliance with the standards prescribed under this title.

''(C) EXEMPTIONS.—A pilot project under this paragraph—

''(i) may exempt a motor carrier under the project from any requirement (or portion thereof) imposed under this title; and

''(ii) shall preempt any State or local regulation that conflicts with the pilot project during the time the pilot project is in effect.

''(D) REVOCATION OF EXEMPTION.—The Secretary shall revoke an exemption granted under subparagraph (C) if—

''(i) the motor carrier to which it applies fails to comply with the terms and conditions of the exemption; or

''(ii) The Secretary determines that the exemption has resulted in a lower level of safety than was maintained before the exemption was granted.''.

SEC. 423. COMMERCIAL MOTOR VEHICLE SAFETY STUDIES.

(a) IN GENERAL.—The Secretary of Transportation shall conduct a study of the impact of safety and infrastructure of tandem axle commercial motor vehicle operations in States that permit the operation of such vehicles in excess of the weight limits established by section 127 of title 23, United States Code.

(b) COOPERATIVE AGREEMENTS WITH STATES.—The Secretary shall enter into cooperative agreements with States described in subsection (a) under which the States participate in the collection of weight-in-motion data necessary to achieve the purpose of the study. If the Secretary determines that additional weight-in-motion sites, on or off the Dwight D. Eisenhower System of Interstate and Defense Highways, are necessary to carry out the study, and requests assistance from the States in choosing appropriate locations, the States shall identify the industries or transportation companies operating within their borders that regularly utilize the 35,000 pound tandem axle.

''(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Congress a report on the results of the study, together with any related legislative or administrative recommendations. Until the Secretary transmits the report to the Congress, the Secretary may not withhold funds under section 104 of title 23, United States Code, from any State for violation of the grandfathered tandem axle weight limits under section 127 of that title.

SEC. 424. INCREASED MCSAP PARTICIPATION IMPACT STUDY.

(a) IN GENERAL.—If a State that did not receive its full allocation of funding under the Motor Carrier Safety Assistance Program during fiscal years 1996 and 1997 agrees to enter into a cooperative agreement with the Secretary to evaluate the safety impact, costs, and benefits of allowing such State to continue to participate fully in the Motor Carrier Safety Assistance Program, then the Secretary of Transportation shall allocate to that State the full amount of funds to which it would otherwise be entitled for fiscal years 1998, 1999, 2000, 2001, 2002, and 2003. The Secretary may not add conditions to the cooperative agreement other than those directly relating to the accurate and timely collection of inspection and crash data sufficient to ascertain the safety and effectiveness of such State's program.

(b) REQUIREMENTS.—

(1) REPORT.—The State shall submit to the Secretary each year the results of such safety evaluations.

(2) TERMINATION BY SECRETARY.—If the Secretary finds such an agreement not in the public interest based on the results of such evaluations after 2 years of full participation, the Secretary may terminate the agreement entered into under this section.

(c) PROHIBITION OF ADOPTION OF LESSER STANDARDS.—No State may enact or implement motor carrier safety regulations that are determined by the Secretary to be less strict than those in effect as of September 30, 1997.

TITLE V—RAIL AND MASS TRANSPORTATION ANTI-TERRORISM; SAFETY

SEC. 501. PURPOSE.

The purpose of this title is to protect the passengers and employees of railroad carriers and mass transportation systems and the movement of freight by railroad from terrorist attacks.

SEC. 502. AMENDMENTS TO THE ''WRECKING TRAINS'' STATUTE.

(a) Section 1992 of title 18, United States Code, is amended to read as follows:

"§ 1992. Terrorist attacks against railroads

''(a) GENERAL PROHIBITIONS.—Whoever willfully—

''(1) wrecks, derails, sets fire to, or disables any train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier;

''(2) brings, carries, possesses, places or causes to be placed any destructive substance, or destructive device in, upon, or near any train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier, without previously obtaining the permission of the carrier, and with intent to endanger the safety of any passenger or employee of the carrier, or with a reckless disregard for the safety of human life;

''(3) sets fire to, or places any destructive substance, or destructive device in, upon or near, or undermines any tunnel, bridge, viaduct, trestle, track, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, or otherwise makes any such tunnel, bridge, viaduct, trestle, track, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance unworkable or unusable or hazardous to work or use, knowing or having reason to know such activity would likely derail, disable, or wreck a train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier;

''(4) removes appurtenances from, damages, or otherwise impairs the operation of any railroad signal system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal on a railroad line used, operated, or employed by a railroad carrier;

''(5) interferes with, disables or incapacitates any locomotive engineer, conductor, or other person while they are operating or maintaining a train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier, with intent to endanger the safety of any passenger or employee of the carrier, or with a reckless disregard for the safety of human life;

''(6) commits an act intended to cause death or serious bodily injury to an employee or passenger of a railroad carrier while on the property of the carrier;

''(7) causes the release of a hazardous material being transported by a rail freight car, with the intent to endanger the safety of any person, or with a reckless disregard for the safety of human life;

''(8) conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subsection; or

''(9) attempts, threatens, or conspires to do any of the aforesaid acts,

shall be fined under this title or imprisoned not more than twenty years, or both, if such act is committed, or in the case of a threat or conspiracy such act would be committed, within the United States on, against, or affecting a railroad carrier engaged in or affecting interstate or foreign commerce, or if in the course of committing such acts, that person travels or communicates across a State line in order to commit such acts, or transports materials across a State line in aid of the commission of such acts; Provided however, that whoever is convicted of any crime prohibited by this subsection shall be:

''(A) imprisoned for not less than thirty years or for life if the railroad train involved carried high-level radioactive waste or spent nuclear fuel at the time of the offense;

''(B) imprisoned for life if the railroad train involved was carrying passengers at the time of the offense; and

''(C) imprisoned for life or sentenced to death if the offense has resulted in the death of any person.

''(b) PROHIBITIONS ON THE USE OF FIREARMS AND DANGEROUS WEAPONS.—

''(1) Except as provided in paragraph (4), whoever knowingly possesses or causes to be present any firearm or other dangerous weapon on board a passenger train of a railroad carrier, or attempts to do so, shall be fined under this title or imprisoned not more than one year, or both, if such act is committed on a railroad carrier that is engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

''(2) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon on board a passenger train or in a passenger terminal facility of a railroad carrier, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both, if such act is committed on a railroad carrier that is engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

''(3) A person who kills or attempts to kill a person in the course of a violation of paragraphs (1) or (2), or in the course of an attack on a passenger train or a passenger terminal facility of a railroad carrier involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113 of this title.

''(4) Paragraph (1) shall not apply to:

''(A) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while engaged in the lawful performance of official duties, who is authorized by law to engage in the transportation of people accused or convicted of crimes, or supervise the prevention, detection, investigation, or prosecution of any violation of law;

''(B) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while off duty, if such possession is authorized by law;

''(C) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law;

''(D) the possession of a firearm or other dangerous weapon by a railroad police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State, whether on or off duty; or

''(E) an individual transporting a firearm on board a railroad passenger train (except a loaded firearm) in baggage not accessible to any passenger on board the train, if the railroad carrier was informed of the presence of the weapon prior to the firearm being placed on board the train.

''(c) PROHIBITION AGAINST PROPELLING OBJECTS.—Whoever willfully or recklessly throws, shoots, or propels a rock, stone, brick, or piece of iron, steel, or other metal or any deadly or dangerous object or destructive substance at any locomotive or car of a train, knowing or having reason to know such activity would likely cause personal injury, shall be fined under this title or imprisoned for not more than 5 years, or both, if such act is committed on or against a railroad carrier engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act. Whoever is convicted of any crime prohibited by this subsection by this subsection shall also be subject to imprisonment for not more than twenty years if the offense has resulted in the death of any person.

''(d) DEFINITIONS.—In this section—

''(1) 'dangerous device' has the meaning given to that term in section 921(a)(4) of this title;

''(2) 'dangerous weapon' has the meaning given to that term in section 930 of this title;

''(3) 'destructive substance' has the meaning given to that term in section 31 of this title, except that (A) the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes, and (B) 'destructive substance' includes any radioactive device or material that could be used to cause a harm listed in subsection (a) and that is not in use solely for medical, industrial, research, or other peaceful purposes;

''(4) 'firearm' has the meaning given to that term in section 921 of this title;

''(5) 'hazardous material' has the meaning given to that term in section 5102(2) of title 49, United States Code;

''(6) 'high-level radioactive waste' has the meaning given to that term in section 10101(12) of title 42, United States Code;

''(7) 'railroad' has the meaning given to that term in section 20102(1) of title 49, United States Code;

''(8) 'railroad carrier' has the meaning given to the term in section 20102(2) of title 49, United States Code;

''(9) 'serious bodily injury' has the meaning given to that term in section 1365 of this title;

''(10) 'spent nuclear fuel' has the meaning given to that term in section 10101(23) of title 42, United States Code; and

''(11) 'State' has the meaning given to that term in section 2266 of this title.''.

(b) In the analysis of chapter 97 of title 18, United States Code, item ''1992'' is amended to read:

''1992. Terrorist attacks against railroads''.

SEC. 503. TERRORIST ATTACKS AGAINST MASS TRANSPORTATION.

(a) Chapter 97 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1994. Terrorist attacks against mass transportation

''(a) GENERAL PROHIBITIONS.—Whoever willfully—

''(1) wrecks, derails sets fire to, or disables a mass transportation vehicle or vessel;

''(2) places or causes to be placed any destructive substance in, upon, or near a mass transportation vehicle or vessel, without previously obtaining the permission of the mass transportation provider, and with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

''(3) sets fire to, or places any destructive substance in, upon, or near any garage, terminal, structure, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, knowing or having reason to know such activity would likely derail, disable, or wreck a mass transportation vehicle used, operated, or employed by mass transportation provider;

''(4) removes appurtenances from, damages, or otherwise impairs the operation of a mass transportation signal system, including

a train control system, centralized dispatching system, or rail grade crossing warning signal;

''(5) interferes with, disables or incapacitates any driver or person while they are employed in operating or maintaining a mass transportation vehicle or vessel, with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

''(6) commits an act intended to cause death or serious bodily injury to an employee or passenger of mass transportation provider on the property of a mass transportation provider;

''(7) conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subsection; or

''(8) attempts, threatens, or conspires to do any of the aforesaid acts—shall be fined under this title or imprisoned not more than twenty years, or both, if such act is committed, or in the case of a threat or conspiracy such act would be committed, within the United States on, against, or affecting a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act. Whoever is convicted of a crime prohibited by this section shall also be subject to imprisonment for life if the mass transportation vehicle or vessel was carrying a passenger at the time of the offense, and imprisonment for life or sentenced to death if the offense has resulted in the death of any person.

''(b) PROHIBITIONS ON THE USE OF FIREARMS AND DANGEROUS WEAPONS.—

''(1) Except as provided in paragraph (4), whoever knowingly possesses or causes to be present any firearm or other dangerous weapon on board a mass transportation vehicle or vessel, or attempts to do so, shall be fined under this title or imprisoned not more than one year, or both, if such act is committed on a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

''(2) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon on board a mass transportation vehicle or vessel, or in a mass transportation passenger terminal facility, or attempts to do so, shall be fined under this title, or imprisoned not more than 5 years, or both, if such act is committed on a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

''(3) A person who kills or attempts to kill a person in the course of a violation of paragraphs (1) or (2), or in the course of an attack on a mass transportation vehicle or vessel, or a mass transportation passenger terminal facility involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113 of this title.

''(4) Paragraph (1) shall not apply to:

''(A) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while engaged in the lawful performance of official duties, who is authorized by law to engage in the transportation of people accused or convicted of crimes, or supervise the prevention, detection, investigation, or prosecution of any violation of law;

''(B) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while off duty, if such possession is authorized by law'

''(C) the possession of a firearm or other dangerous weapon by a Federal official or member of the Armed Forces if such possession is authorized by law;

''(D) the possession of a firearm of other dangerous weapon by a railroad police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State, whether on or off duty; or

''(E) an individual transporting a firearm on board a mass transportation vehicle or vessel (except a loaded firearm) in baggage not accessible to any passenger on board the vehicle or vessel, if the mass transportation provider was informed of the presence of the weapon prior to the firearm being placed on board the vehicle or vessel.

''(c) PROHIBITION AGAINST PROPELLING OBJECTS.—Whoever willfully or recklessly throws, shoots, or propels a rock, stone, brick, or piece of iron, steel, or other metal or any deadly or dangerous object or destructive substance at any mass transportation vehicle or vessel, knowing or having reason to know such activity would likely cause personal injury, shall be fined under this title or imprisoned for not more than 5 years, or both, if such act is committed on or against a mass transportation provider engaged in or substantially affecting interstate or foreign commerce, or if in the course of committing such acts, that person travels or communicates across a State line in order to commit such acts, or transports materials across a State line in aid of the commission of such acts. Whoever is convicted of any crime prohibited by this subsection shall also be subject to imprisonment for not more than twenty years if the offense has resulted in the death of any person.

''(d) DEFINITIONS.—In this section—

''(1) 'dangerous device' has the meaning given to that term in section 921(a)(4) of this title;

''(2) 'dangerous weapon' has the meaning given to that term in section 930 of this title;

''(3) 'destructive substance' has the meaning given to that term in section 31 of this title, except that (A) the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes, and (B) 'destructive substance' includes any radioactive device or material that can be used to cause a harm listed in subsection (a) and that is not in use solely for medical, industrial, research, or other peaceful purposes;

''(4) 'firearm' had the meaning given to that term in section 921 of this title;

''(5) 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, United States Code, except that the term shall include schoolbus, charter, and sightseeing transportation;

''(6) serious bodily injury' has the meaning given to that term in section 1365 of this title, and

''(7) 'State' has the meaning given to that term in section 2266 of this title.''.

(b) The analysis of chapter 97 of title 18, United States Code, is amended by adding at the end thereof:

''1994. Terrorist attacks against mass transportation.''.

SEC. 504. INVESTIGATIVE JURISDICTION.

The Federal Bureau of Investigation shall lead the investigation of all offenses under sections 1192 and 1994 of title 18, United States Code. The Federal Bureau of Investigation shall cooperate with the National Transportation Safety Board and with the Department of Transportation in safety investigations by these agencies, and with the Treasury Department's Bureau of Alcohol, Tobacco and Firearms concerning an investigation regarding the possession of firearms and explosives.

SEC. 505. SAFETY CONSIDERATIONS IN GRANTS OR LOANS TO COMMUTER RAILROADS.

Section 5329 is amended by adding at the end the following:

''(c) COMMUTER RAILROAD SAFETY CONSIDERATIONS.—In making a grant or loan under this chapter that concerns a railroad subject to the Secretary's railroad safety jurisdiction under section 20102 of this title, the Federal Transit Administrator shall consult with the Federal Railroad Administrator concerning relevant safety issues. The Secretary may use appropriate authority under this chapter, including the authority to prescribe particular terms or convenants under section 5334 of this title, to address any safety issues identified in the project supported by the loan or grant.''.

SEC. 506. RAILROAD ACCIDENT AND INCIDENT REPORTING.

Section 20901(a) is amended to read as follows:

''(a) GENERAL REQUIREMENTS.—On a periodic basis not more frequent than monthly, as specified by the Secretary of Transportation, a railroad carrier shall file a report with the Secretary on all accidents and incidents resulting in injury or death to an individual or damage to equipment or a roadbed arising from the carrier's operations during that period. The report shall state the nature, cause, and circumstances of each reported accident or incident. If a railroad carrier assigns human error as a cause, the report shall include, at the option of each employee whose error is alleged, a statement by the employee explaining any factors the employee alleges contributed to the accident or incident.''.

SEC. 507. VEHICLE WEIGHT LIMITATIONS—MASS TRANSPORTATION BUSES.

Section 1023(h)(1) of the Intermodal Surface Transportation Efficiency Act of 1991, as amended (23 U.S.C. 127 note), is amended by striking ''the date on which'' and all that follows through ''1995'' and inserting ''January 1, 2003''.

TITLE—VI SPORTFISHING AND BOATING SAFETY

SEC. 601. AMENDMENT OF 1950 ACT.

Whenver in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of the 1950 Act, the reference shall be considered to be made to a section or other provision of the Act entitled ''An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes,'' approved August 9, 1950 (16 U.S.C. 777 et seq.).

SEC. 602. OUTREACH AND COMMUNICATIONS PROGRAMS.

(a) DEFINITIONS.—Section 2 of the 1950 Act (16 U.S.C. 777a) is amended—

(1) by indenting the left margin of so much of the text as precedes ''(a)'' by 2 ems;

(2) by inserting ''For purposes of this Act—'' after the section caption;

(3) by striking ''For the purposes of this Act the'' in the first paragraph and inserting ''(1) the'';

(4) by indenting the left margin of so much of the text as follows ''include—'' by 4 ems;

(5) by striking ''(a)'', ''(b)'', ''(c)'', and ''(d)'' and inserting ''(A)'', ''(B)'', ''(C)'', and ''(D)'', respectively;

(6) by striking ''department.'' and inserting ''department;''; and

(7) by adding at the end thereof the following:

''(2) the term 'outreach and communications program' means a program to improve communications with anglers, boaters, and the general public regarding angling and boating opportunities, to reduce barriers to participation in these activities, to advance adoption of sound fishing and boating practices, to promote conservation and the responsible use of the nation's aquatic resources, and to further safety in fishing and boating; and

''(3) the term 'aquatic resource education program' means a program designed to enhance the public's understanding of aquatic resources and sport-fishing, and to promote the development of responsible attitudes and ethics toward the aquatic environment.''.

(b) FUNDING FOR OUTREACH AND COMMUNICATIONS PROGRAM.—Section 4 of the 1950 Act (16 U.S.C. 777c) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f);

(2) by inserting after subsection (b) the following:

''(c) NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—Of the balance of each such annual appropriation remaining after making the distribution under subsections (a) and (b), respectively, an amount equal to—

(1) $5,000,000 for fiscal year 1998;
(2) $6,000,000 for fiscal year 1999;
(3) $7,000,000 for fiscal year 2000;
(4) $8,000,000 for fiscal year 2001;
(5) $10,000,000 for fiscal year 2002; and
(6) $10,000,000 for fiscal year 2003,

shall be used for the National Outreach and Communications Program under section X08(d). Such amounts shall remain available for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary of the Interior for that program may be expended by the Secretary under subsection (e).'';

(3) by inserting a comma and ''for an outreach and communications program'' after ''Act'' in subsection (d)), as redesignated;

(4) by striking ''subsections (a) and (b),'' in subsection (d), as redesignated, ''subsections (a), (b), and (c),'';

(5) by adding at the end of subsection (d), as redesignated, the following: ''Of the sum available to the Secretary of the Interior under this subsection for any fiscal year, up to $2,500,000 may be used for the National Outreach and Communications Program under section X08(d) in addition to the amount available for that program under subsection (c). No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purpose except those purposes authorized by this Act. The Secretary shall publish a detailed accounting of the projects, programs, and activities funded under this subsection annually in the Federal Register.''; and

(6) by striking subsections (a), (b), and (c),'' in subsection (e), as redesignated, and inserting ''subsections (a), (b), (c), and (d),''.

(c) INCREASE IN STATE ALLOCATION.—Section 8 of the 1950 Act (16 U.S.C. 777g) is amended—

(1) by striking ''12 ½ percentum'' each place it appears in subsection (b) and inserting ''15 percent'';

(2) by striking ''10 percentum'' in subsection (c) and inserting ''15 percent'''

(3) by inserting ''and communications'' in subsection (c) after ''outreach''; and

(4) by redesignating subsection (d) as subsection (f); and by inserting after subsection (c) the following:

''(d) NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—

''(1) IMPLEMENTATION.—Within 1 year after the date of enactment of the Intermodal Transportation Safety Act of 1997, the Secretary of the Interior shall develop and implement, in cooperation and consultation with the Sport Fishing and Boating partnership Council, a national plan for outreach and communications.

''(2) CONTENT.—The plan shall provide—

''(A) guidance, including guidance on the development of an administrative process and funding priorities, for outreach and communications programs; and

''(B) for the establishment of a national program.

''(3) SECRETARY MAY MATCH OR FUND PROGRAMS.—Under the plan, the Secretary may obligate amounts available under subsection (c) or (d) of section 604 of this Act—

''(A) to make grants to any State or private entity to pay all or any portion of the cost of carrying out any outreach or communications program under the plan; or

''(B) to fund contracts with States or private entities to carry out such a program.

''(4) REVIEW.—The plan shall be reviewed periodically, but not less frequently than once every 3 years.

''(e) STATE OUTREACH AND COMMUNICATIONS PROGRAM.—Within 12 months after the completion of the national plan under subsection (d)(1), a State shall develop a plan for an outreach and communications program and submit it to the secretary. In developing the plan, a State shall—

''(1) review the national plan developed under subsection (d);

''(2) consult with anglers, boaters, the sportfishing and boating industries, and the general public; and

''(3) establish priorities or the State outreach and communications program proposed for implementation.''.

SEC. 603. CLEAN VESSEL ACT FUNDING.

Section 4(b) of the 1950 Act (16 U.S.C. 777c(b)) is amended to read as follows:

''(b) USE OF BALANCE AFTER DISTRIBUTION.—

''(1) FISCAL YEAR 1998.—For fiscal year 1998, of the balance remaining after making the distribution under subsection (a), an amount equal to $51,000,000 shall be used as follows:

''(A) $10,000,000 shall be available to the Secretary of the Interior for 3 years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note);

''(B) $10,000,000 shall be available to the Secretary of the Interior for 3 years for obligation for qualified projects under section X05(d) of the Intermodal Transportation Safety Act of 1997; and

''(C) $31,000,000 shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.

''(2) FISCAL YEARS 1999–2003.—For each of fiscal years 1999 through 2003, the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $84,000,000, reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 (26 U.S.C. 9504) to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

''(A) $10,000,000 shall be available for each fiscal year to the Secretary of the Interior for 3 years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note);

''(B) $10,000,000 shall be available for each fiscal year to the Secretary of the Interior for 3 years for obligation for qualified projects under section X05(d) of the Intermodal Transportation Safety Act of 1997; and

''(C) the balance shall be transferred for each such fiscal year to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.

''(3) Amounts available under subparagraphs (A) and (B) of paragraph (1) and paragraph (2) that are unobligated by the Secretary of the Interior after 3 years shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106(a) of title 46, United States Code.''.

SEC. 604. BOATING INFRASTRUCTURE.

(a) PURPOSE.—The purpose of this section is to provide funds to States for the development and maintenance of public facilities for transient nontrailerable recreational vessels.

(b) SURVEY.—Section 8 of the 1950 Act (16 U.S.C. 777g), as amended by section X03, is amended by adding at the end thereof the following:

''(g) SURVEYS.—

''(1) NATIONAL FRAMEWORK.—Within 6 months after the date of enactment of the Intermodal Transportation Safety Act of 1997, the Secretary, in consultation with the States, shall adopt a national framework for a public boat access needs assessment which may be used by States to conduct surveys to determine the adequacy, number, location, and quality of facilities providing access to recreational waters for all sizes of recreational boats.

''(2) STATE SURVEYS.—Within 18 months after such date of enactment, each State that agrees to conduct a public boat access needs survey following the recommended national framework shall report its findings to the Secretary for use in the development of a comprehensive national assessment of recreational boat access needs and facilities.

''(3) EXCEPTION.—Paragraph (2) does not apply to a State if, within 18 months after such date of enactment, the Secretary certifies that the State has developed and is implementing a plan that ensures there are and will be public boat access adequate to meet the needs of recreational boaters on its waters.

''(4) FUNDING.—A State that conducts a public boat access needs survey under paragraph (2) may fund the costs of conducting that assessment out of amounts allocated to it as funding dedicated to motorboat access to recreational waters under subsection (b)(1) of this section.''

(c) PLAN.—Within 6 months after submitting a survey to the Secretary under section 8(g) of the Act entitled ''An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes,'' approved August 9, 1950 (16 U.S.C. 777g(g)), as added by subsection (b) of this section, a State may develop and submit to the Secretary a plan for the construction, renovation, and maintenance of public facilities, and access to those facilities, for transient nontrailerable recreational vessels to meet the needs of nontrailerable recreational vessels operating on navigable waters in the State.

(d) GRANT PROGRAM.—

(1) MATCHING GRANTS.—The Secretary of the Interior shall obligate amounts made available under section 4(b)(1)(C) of the Act entitled ''An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes,'' approved August 9, 1950 (16 U.S.C. 777c(b)(1)(C)) to make grants to any State to

pay not more than 75 percent of the cost to a State of constructing, renovating, or maintaining public facilities for transient nontrailerable recreational vessels.

(2) PRIORITIES.—In awarding grants under paragraph (1), the Secretary shall give priority to projects that—

(A) consist of the construction, renovation, or maintenance of public facilities for transient nontrailerable recreational vessels in accordance with a plan submitted by a State under subsection (c);

(B) provide for public/private partnership efforts to develop, maintain, and operate facilities for transient nontrailerable recreational vessels; and

(C) propose innovative ways to increase the availability of facilities for transient nontrailerable recreational vessels.

(e) DEFINITIONS.—For purposes of this section, the term—

(1) ''nontrailerable recreational vessel'' means a recreational vessel 26 feet in length or longer—

(A) operated primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure;

(2) ''public facilities for transient nontrailerable recreational vessels'' includes mooring buoys, daydocks, navigational aids, seasonal slips, or similar structures located on navigable waters, that are available to the general public and designed for temporary use by nontrailerable recreational vessels; and

(4) ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(f) EFFECTIVE DATE.—This section shall take effect on October 1, 1997.

SEC. 605. BOAT SAFETY FUNDS.

(a) AVAILABILITY OF ALLOCATIONS.—Section 13104(a) of title 46, United States Code, is amended—

(1) by striking ''3 years'' in paragraph (1) and inserting ''2 years''; and

(2) by striking ''3-year'' in paragraph (2) and inserting ''2-year''.

(b) EXPENDITURES.—Section 13106 of title 46, United States Code, is amended—

(1) by striking the first sentence of subsection (a)(1) and inserting the following: ''Subject to paragraph (2) and subsection (c), the Secretary shall expend in each fiscal year for State recreational boating safety programs, under contracts with States under this chapter, an amount equal to the sum of (A) the amount appropriated from the Boat Safety Account for that fiscal year and (B) the amount transferred to the Secretary under section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b)).''; and

(2) by striking subsection (c) and inserting the following:

''(c) Of the amount transferred for each fiscal year to the Secretary of Transportation under section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b)), $5,000,000 is available to the Secretary for payment of expenses of the Coast Guard for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program under this title. No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized by this Act. Amounts made available by this subsection shall remain available until expended. The Secretary shall publish annually in the Federal Register a detailed accounting of the projects, programs, and activities funded under this subsection.''.

(c) CONFORMING AMENDMENTS.—

(1) The caption for section 13106 of title 46, United States Code, is amended to read as follows:

§ 13106. Authorization of appropriations''.

(2) The chapter analysis for chapter 131 of title 46, United States Code, is amended by striking the item relating to section 13106 and inserting the following:

''13106. Authorization of appropriations''.

TITLE VII—MISCELLANEOUS

SEC. 701. ENFORCEMENT OF WINDOW GLAZING STANDARDS FOR LIGHT TRANSMISSION.

Section 402(a) of title 23, United States Code, is amended by striking ''post-accident procedures.'' and inserting ''post-accident procedures, including the enforcement of light transmission standards of glazing for passenger motor vehicles and light trucks as necessary to improve highway safety.''.

DOMENICI AMENDMENT NO. 1365

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

In the language proposed to be stricken, at the appropriate place insert the following:

Notwithstanding any other provision of this Act, any amount of contract authority which is provided in this Act for the reauthorization of the Intermodal Surface Transportation Efficiency Act of 1991, which exceeds $147,387,000,000 for fiscal years 1998 through 2002 shall only be available to the extent provided in advance in appropriation acts.

REID AMENDMENTS NOS. 1366–1367

(Ordered to lie on the table.)

Mr. REID submitted two amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1366

On page 253, between lines 15 and 16, insert the following:

''(3) LAKE TAHOE REGION.—Notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region (as defined in the Lake Tahoe Regional Planning Compact), by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

AMENDMENT NO. 1367

At the appropriate place, insert the following:

SEC. . LONGER COMBINATION VEHICLES.

(a) INTERSTATE SYSTEM.—

(1) IN GENERAL.—Section 127(d) of title 23, United States Code, is amended—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by striking ''configuration type was'' and inserting the following ''configuration type—

''(i) was'';

(II) by striking the period at the end and inserting ''; and''; and

(III) by adding at the end the following:

''(ii) consists of combination of a truck tractor and 2 trailers or semitrailers.''; and

(ii) in each of subparagraphs (D), (E), and (F), by inserting before the period at the end the following: '', except that the State may not allow the operation of any combination of a truck tractor and more than 2 trailers or semitrailers''; and

(B) in paragraph (3), by adding at the end the following:

''(F) ADDITIONAL REVISION.—

''(i) IN GENERAL.—Not later than 120 days after the date of enactment of this subparagraph, the Secretary shall publish in the Federal Register a revision of the list published under subparagraph (D) that reflects the amendments made by section ——(a) of the Intermodal Surface Transportation Efficiency Act of 1997.

''(ii) REVIEW AND CORRECTION PROCEDURE.—The revised list published under clause (i) shall be subject to the review and correction procedure described in subparagraph (E).''.

''(2) APPLICATION OF AMENDMENTS.—The amendments made by paragraph (1) shall apply beginning on the date that is 180 days after the date of enactment of this Act.

PROPERTY-CARRYING UNIT LIMITATION.—Section 31112 of title 49, United States Code, is amended—

(1) in subsection (b), by striking ''A State'' and inserting ''Subject to subsection (h), a State'';

(2) in subsection (c), by striking ''In addition'' and inserting ''Subject to subsection (h), in addition'';

(3) in subsection (d), by adding at the end the following:

''(5) Paragraphs (1) through (3) are subject to the limitation under subsection (h).'';

(4) in subsection (e), by adding at the end the following:

''(5) Not later than 120 days after the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997, the Secretary shall publish in the Federal Register a revised list that reflects the limitation under subsection (h).'';

(5) in subsection (f), by striking ''This section'' and inserting ''Except as provided in subsection (h), this section''; and

(6) by adding at the end the following:

''(h) LIMITATION WITH RESPECT TO LONGER COMBINATION VEHICLES.—Beginning on the date specified in section ——(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1997, each State shall take such action as may be necessary to ensure that no longer combination vehicle (as that term is defined in section 127(d)(4) of title 23, United States Code) that consists of a combination of a truck tractor and more than 2 trailers or semitrailers may operate on the Interstate System.''.

JOHNSON AMENDMENT NO. 1368

(Ordered to lie on the table.)

Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

On page 136, strike line 22 and insert the following:

specified in subparagraph (G).''.

SEC. 1128. TAX-EXEMPT FUEL FOR MASS TRANSPORTATION RECIPIENTS.

(a) GASOLINE.—Section 6421(b)(1) of the Internal Revenue Code of 1986 (relating to intercity, local, or school buses) is amended by striking ''or'' at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following:

''(B) providing mass transportation (as defined in section 5302(a)(7) of title 49, United States Code), if the mass transportation provider is a recipient or a subrecipient of financial assistance under chapter 53 of such title or an entity under contract to a recipient to provide mass transportation service for the recipient, but only to the extent that mass transportation service is provided, or''.

(b) OTHER FUELS.—Section 6427(b)(1) of the Internal Revenue Code of 1986 (relating to intercity, local, or school buses) is amended by striking ''or'' at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following:

''(B) providing mass transportation (as defined in section 5302(a)(7) of title 49, United States Code), if the mass transportation provider is a recipient or a subrecipient of financial assistance under chapter 53 of such title or an entity under contract to a recipient to provide mass transportation service for the recipient, but only to the extent that mass transportation service is provided, or''.

(c) CONFORMING AMENDMENT.—Section 6427(b)(2)(B) of the Internal Revenue Code of 1986 is amended to read as follows:

''(B) EXCEPTION FOR CERTAIN TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in an automobile bus which engaged in the transportation described in subparagraph (B) or (C) of paragraph (1).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel used after the date of enactment of this Act.

JOHNSON (AND OTHERS) AMENDMENT NO. 1369

(Ordered to lie on the table.)

Mr. JOHNSON (for himself, Mr. THOMAS, Mr. LEVIN, and Mr. ALLARD) submitted an amendment intended to be proposed by them to the bill, S. 1173, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. MINIMUM GUARANTEE OF TRANSIT PROGRAM FUNDS.

Section 5338 of title 49, United States Code, is amended by adding at the end the following:

''(o) MINIMUM GUARANTEE OF TRANSIT PROGRAM FUNDS.

''(1) SET-ASIDE REQUIRED.—For each fiscal year beginning after September 30, 1997, after providing for any allocation or set-asides under subsection (g) or (h), but before completing distribution of other amounts made available or appropriated under subsections (a) and (b), the Secretary shall set aside, and shall make available to each State, in addition to amounts otherwise made available to the State (or to its political subdivisions) to carry out sections 5307, 5309, 5310, and 5311, the amount calculated under paragraph (2)(B).

''(2) CALCULATION.—

''(A) DEFINITION OF MINIMUM GUARANTEE THRESHOLD AMOUNT.—In this subsection, the term 'minimum guarantee threshold amount' means, with respect to a State for a fiscal year, the amount equal to the product of—

''(i) total amount made available to all States and political subdivisions under sections 5307, 5309, 5310, and 5311 for that fiscal year; multiplied by

''(ii) 70 percent of the State's percentage contribution to the estimated tax payments attributable to highway users in all States and allocated to the Mass Transit Account under section 9503(e) of the Internal Revenue Code of 1986 in the latest fiscal year for which data are available.

''(B) CALCULATION.—Subject to subparagraph (C) and any other limitations set forth in this subsection, the amount required to be provided to a State under this subsection is the amount, if it is a positive number, that, if added to the total amount made available to the State (and its political subdivisions) under sections 5307, 5309, 5310, and 5311 for that fiscal year, is equal to the minimum guarantee threshold amount.

''(C) LIMITATION.—The maximum amount made available to a State under this subsection shall not exceed $12,500,000.

''(3) SOURCE OF FUNDS.—

''(A) IN GENERAL.—Amounts required to be set aside and made available to States under this subsection—

''(i) may be obtained from any amounts under section 5309 that are made available to the Secretary for distribution at the Secretary's discretion; or

''(ii) if not, shall be obtained by proportionately reducing amounts which would otherwise be made available under subsections (a) and (b), for sections 5307, 5309, 5310, and 5311, to those States and political subdivisions for which the amount made available under sections 5307, 5309, 5310, and 5311 to the State (including political subdivisions thereof) is greater than the product of—

''(I) total amount made available to all States and political subdivisions under sections 5307, 5309, 5310, and 5311, in that fiscal year; multiplied by

''(II) the State's percentage contribution to the estimated tax payments attributable to highway users in all States and allocated to the Mass Transit Account under section 9503(e) of the Internal Revenue Code of 1986 in the latest fiscal year for which data are available.

''(B) PROPORTIONATE REDUCTIONS.—The Secretary also shall apply reductions under subparagraph (A)(ii) proportionately to amounts made available from the Mass Transit Account and to amounts made available from other sources.

''(C) OTHER REDUCTIONS.—

''(i) IN GENERAL.—Reductions otherwise required by subparagraph (A) may be taken against the amounts that otherwise would be made available to any State or political subdivision thereof, only to the extent that making those reductions would not reduce the total amount made available to the State and its political subdivisions under sections 5307, 5309, 5310, and 5311 to less than the lesser of—

''(I) 90 percent of the total of those amounts made available to the State and its political subdivisions in fiscal year 1997; or

''(II) the minimum guarantee threshold amount for the State for the fiscal year at issue.

''(ii) PROPORTIONATE REDUCTIONS.—In the event of the applicability of clause (i), the Secretary shall obtain the remainder of the amounts required to be made available to States under the minimum guarantee required by this subsection proportionately from those States, including political subdivisions, to which subparagraph (A) applies, and to which clause (i) of this subparagraph does not apply.

''(4) ATTRIBUTION OF AMOUNTS.—For the purposes of calculations under this subsection, with respect to attributing to individual States any amounts made available to political subdivisions that are multi-State entities, the Secretary shall attribute those amounts to individual States, based on such criteria as the Secretary may adopt by rule, except that, for purposes of calculations for fiscal year 1998 only, the Secretary may attribute those amounts to individual States before adopting a rule.

''(5) USE OF ADDITIONAL AMOUNTS.—Amounts made available to a State under this subsection may be used for any purpose eligible for assistance under this chapter. Not more than 50 percent of the amount made available to a State under this subsection for any fiscal year may be used by the State for any project or program eligible for assistance under title 23.

''(6) TREATMENT OF CERTAIN AMOUNTS.—For purposes of sections 5323(a)(1)(D) and 5333(b), amounts made available to a State under this subsection that are, in turn, awarded by the State to subgrantees, shall be treated as if apportioned—

''(A) under section 5311, if the subgrantee is not serving an urbanized area; and

''(B) directly to the subgrantee under section 5307, if the subgrantee serves an urbanized area.''.

STEVENS AMENDMENT NO. 1370

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . MUNICIPALITY OR FERRY AUTHORITY.

(a) Notwithstanding any other provision of law, section 5333(b) of Title 49, United States Code, shall not apply to a grant to a municipality or ferry authority for a ferry operated between points which are not connected by road to the remainder of the United States, Canada, or Mexico and which is replacing service that has been or will be diminished by the applicable State or ferry authority within 24 months of the date of passage of this amendment.

(b) The Federal Transit Administration is authorized to award a grant to a municipality or ferry authority required by State law to operate its ferry without any guarantee from other municipal receipts or financing.

SPECTER AMENDMENTS NOS. 1371–1372

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1371

On page 309, after line 3, insert the following:

''Sec. . DESIGNATION OF HIGH PRIORITY CORRIDORS.

''Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032–2033) is amended by inserting after paragraph (29) the following:

''(30) The Mon-Fayette Expressway and Southern Beltway in Pennsylvania.

''(31) The U.S. route 219 Corridor from the vicinity of Bradford, Pennsylvania to the vicinity of Salisbury, Pennsylvania.''

AMENDMENT NO. 1372

On page 105, line 13, strike ''$40,000,000'' and insert ''$50,000,000''.

On page 105, line 14, strike ''$50,000,000'' and insert ''$70,000,000''.

On page 105, line 15, strike ''$60,000,000'' and insert ''$80,000,000''.

On page 105, line 16, strike ''$70,000,000'' and insert ''$100,000,000''.

On page 395, line 8, strike ''$120,000,000'' and insert ''$115,000,000''.

On page 395, line 8, strike ''$125,000,000'' and insert ''$120,000,000''.

On page 395, line 9, strike ''$130,000,000'' and insert ''$125,000,000''.

On page 395, line 10, strike ''$135,000,000'' and insert ''$125,000,000''.

On page 395, line 10, strike ''$140,000,000'' and insert ''$130,000,000''.

On page 395, line 11, strike ''$150,000,000'' and insert ''$135,000,000''.

On page 398, line 7, strike ''$100,000,000'' and insert ''$95,000,000''.

On page 398, line 7, strike ''$110,000,000'' and insert ''$105,000,000''.

On page 398, line 8, strike ''$115,000,000'' and insert ''$110,000,000''.

On page 398, line 9, strike ''$130,000,000'' and insert ''$120,000,000''.

On page 398, line 9, strike ''$135,000,000'' and insert ''$125,000,000''.

On page 398, line 10, strike ''$145,000,000'' and insert ''$130,000,000''.

LEVIN AMENDMENTS NOS. 1373–1376

(Ordered to lie on the table.)

Mr. LEVIN submitted four amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1373

On page 29, strike lines 7 through 19 and insert the following:

''(i) each State's percentage of the total sums made available from the Highway Trust Fund for the fiscal year; bears to

On page 29, lines 23 and 24, strike ''(other than the Mass Transit Account)''.

On page 31, strike lines 8 and 9 and insert the following:

''(B) shall—

''(i) in the case of amounts allocated under subsection (a)(1)(A), be available for any purpose eligible for funding under this title, title 49, or the Intermodal Surface Transportation Efficiency Act of 1997; and

''(ii) in the case of amounts allocated under subsection (a)(1)(B), be available for any purpose eligible for funding under this title.

On page 31, line 11, strike ''(a)'' and insert ''(a)(1)(B)''.

On page 31, line 23, strike the quotation marks and the following period.

On page 31, between lines 23 and 24, insert the following:

''(e) APPLICABILITY OF OBLIGATION LIMITATIONS.—Any obligation limitation established by the Intermodal Surface Transportation Efficiency Act of 1997 or any subsequent Act shall not apply to obligations made under this section, unless the provision of law establishing the limitation specifically amends or limits the applicability of this subsection.''.

AMENDMENT NO. 1374

At the end of subtitle H of title I, add the following:

SECTION 18 . USE OF BRIDGE REINFORCEMENT TECHNOLOGY IN SOUTHFIELD, MICHIGAN.

(a) IN GENERAL.—The Secretary shall make funds available to the State of Michigan to carry out a project to construct the Bridge Street bridge in the city of Southfield, Michigan, using advanced carbon and glass composites as reinforcements for concrete, instead of steel, in the manufacture of prestressed bridge beams and bridge decks.

(b) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $2,300,000 for each of fiscal years 1998 and 1999.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

AMENDMENT NO. 1375

On page 125, lines 5 and 6, strike ''not less than 15 percent'' and insert ''not less than 25 percent, nor more than 35 percent,''.

On page 156, strike lines 21 through 23 and insert the following:

(B) in paragraph (3)—

(i) in the first sentence of subparagraph (A), by striking ''80'' and inserting ''82''; and

(ii) in subparagraph (B)—

(I) by striking ''tobe'' and inserting ''to be''; and

(II) by adding at the end the following: ''A project under this subparagraph shall be undertaken on a road that is classified as below a principal arterial.''; and

On page 274, strike lines 3 through 7 and insert the following:

''(ii) NONMETROPOLITAN AREAS.—

''(I) IN GENERAL.—With respect to each nonmetropolitan area in the State, the program shall be developed jointly by the State, elected officials of affected local governments, and elected officials of subdivisions of affected local governments that have jurisdiction over transportation planning, through a process developed by the State that ensures participation by the elected officials.

''(II) REVIEW.—Not less than once every 2 years, the Secretary shall review the planning process through which the program was developed under subclause (I).

''(III) APPROVAL.—The Secretary shall approve the planning process if the Secretary finds that the planning process is consistent with this section and section 134.

On page 286, between lines 10 and 11, insert the following:

SEC. 1605. STUDY OF PARTICIPATION OF LOCAL ELECTED OFFICIALS IN TRANSPORTATION PLANNING AND PROGRAMMING.

(a) STUDY.—The Secretary shall conduct a study on the effectiveness of the participation of local elected officials in transportation planning and programming.

(b) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the results of the study required under subsection (a).

AMENDMENT NO. 1376

In lieu of the matter proposed to be inserted, insert the following:

1. SHORT TITLE.

This Act may be cited as the ''Short-Term ISTEA Extension Act of 1997''.

SEC. 2. EXTENSION OF FEDERAL-AID HIGHWAY PROGRAMS.

(a) MAJOR PROGRAMS.—

(1) IN GENERAL.—Section 1003 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1918) is amended by adding at the end the following:

''(d) FEDERAL-AID HIGHWAYS FOR PERIOD OF OCTOBER 1, 1997, THROUGH MARCH 31, 1998.—

''(1) IN GENERAL.—

''(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highways and highway safety construction programs $11,942,375,000 for the period of October 1, 1997, through March 31, 1998.

''(B) DISTRIBUTION.—Amounts made available under subparagraph (A) shall be distributed in accordance with this subsection.

''(2) CERTAIN DISCRETIONARY PROGRAMS.—Of the amounts made available under paragraph (1), the Secretary shall deduct, for the period of October 1, 1997, through March 31, 1998—

''(A) $32,500,000 to carry out section 118(c)(2) of title 23, United States Code; and

''(B) $30,250,000 to carry out the discretionary program under paragraphs (1) and (2) of section 144(g) of that title.

''(3) STATE ALLOCATION PERCENTAGES.—Using amounts remaining after making the deductions under paragraph (2) and application of paragraphs (4) and (5), the Secretary shall determine the amount to be apportioned to each State in accordance with the percentage specified for the State in the following table:

"State	Percentage
Alabama	2.1138
Alaska	0.9988
Arizona	1.6077
Arkansas	1.4268
California	9.3057
Colorado	1.2912
Connecticut	1.8229
Delaware	0.4157
District of Columbia	0.4436
Florida	4.7766
Georgia	3.6171
Hawaii	0.6435
Idaho	0.6314
Illinois	3.4058
Indiana	2.5115
Iowa	1.082
Kansas	1.0732
Kentucky	1.7883
Louisiana	1.5431
Maine	0.5871
Maryland	1.5643
Massachusetts	1.8584
Michigan	3.2075
Minnesota	1.4147
Mississippi	1.3196
Missouri	2.4028
Montana	0.7957
Nebraska	0.8027
Nevada	0.6218
New Hampshire	0.4764
New Jersey	2.4404
New Mexico	0.8767
New York	5.1849
North Carolina	2.9155
North Dakota	0.6972
Ohio	3.4675
Oklahoma	1.6553
Oregon	1.2105
Pennsylvania	3.878
Rhode Island	0.6208
South Carolina	1.6819
South Dakota	0.629
Tennessee	2.3345
Texas	7.0623
Utah	0.7969
Vermont	0.3912
Virginia	2.647
Washington	1.8263
West Virginia	1.2008
Wisconsin	1.8776
Wyoming	0.625
Puerto Rico	0.431.

''(4) STATE PROGRAMMATIC DISTRIBUTION.—

''(A) IN GENERAL.—Of the funds to be apportioned to each State under paragraph (3), the Secretary shall ensure that the State is apportioned an amount of the funds, determined under subparagraph (B)—

''(i) for the Interstate maintenance program under section 119 of title 23, United States Code;

''(ii) for the National Highway System under section 103 of that title;

''(iii) for the bridge program under section 144 of that title;

''(iv) for the surface transportation program under section 133 of that title;

''(v) for the congestion mitigation and air quality improvement program under section 149 of that title;

''(vi) for minimum allocation under section 157 of that title;

''(vii) for Interstate reimbursement under section 160 of that title;

''(viii) for the donor State bonus under section 1013(c);

''(ix) for hold harmless under section 1015(a);

''(x) for the 90 percent of payments adjustments under section 1015(b);

''(xi) for metropolitan planning under section 134 of that title;

''(xii) for section 1015(c); and

''(xiii) for funding restoration under section 202 of the National Highway System Designation Act of 1995 (109 Stat. 571).

''(B) FORMULA.—The amount that each State shall be apportioned under this subsection for each item referred to in subparagraph (A) shall be determined by multiplying—

''(i) the amount apportioned to the State under paragraph (3); by

''(ii) the ratio that—

''(I) the amount of funds apportioned for the item to the State for fiscal year 1997; bears to

''(II) the total of the amount of funds apportioned for the items to the State for fiscal year 1997.

''(C) MINIMUM ALLOCATION.—Funds apportioned to States under this subsection for minimum allocation under section 157 of title 23, United States Code, shall not be subject to any obligation limitation.

''(D) ADMINISTRATION.—Funds authorized under this subsection shall be administered as if the funds had been apportioned, allocated, deducted, or set aside, as the case may be, under title 23, United States Code.

''(5) GENERAL OPERATING EXPENSES AND TERRITORIAL HIGHWAYS.—

''(A) GENERAL OPERATING EXPENSES.—After making the determinations and before apportioning funds under paragraphs (3) and (4), the Secretary shall deduct the amount that would be required to be deducted under section 104(a) of title 23, United States Code, from the aggregate of amounts to be apportioned to all States for programs to which the deduction under that section would apply if that section applied to the apportionment.

''(B) TERRITORIAL HIGHWAYS.—After making the determinations and before apportioning funds under paragraphs (3) and (4), the Secretary shall deduct the amount required to be deducted under section 104(b)(1) of title 23, United States Code, for the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands from the aggregate of amounts to be apportioned to all States for the National Highway System under this subsection.''.

(2) NATIONAL RECREATIONAL TRAILS PROGRAM.—Section 104(h) of title 23, United States Code, is amended by inserting after ''1997'' the following: ''and $7,500,000 for the period of October 1, 1997, through March 31, 1998''.

(3) WOODROW WILSON BRIDGE.—Section 104(i)(1) of title 23, United States Code, is amended by inserting after ''1997'' the following: '', and for the period of October 1, 1997, through March 31, 1998,''.

(4) OFF-SYSTEM BRIDGES.—Section 144(g)(3) of title 23, United States Code, is amended by inserting after ''1997,'' the following: ''and for the period of October 1, 1997, through March 31, 1998,''.

(5) SURFACE TRANSPORTATION PROGRAM.—

(A) IN GENERAL.—Section 133(f) of title 23, United States Code, is amended by inserting after ''1997'' the following: '', and for the period of October 1, 1997, through March 31, 1998,''.

(B) APPORTIONMENT OF SURFACE TRANSPORTATION PROGRAM FUNDS.—Section 104(b)(3)(B) of title 23, United States Code, is amended in the first sentence by inserting after ''1997,'' the following: ''and for the period of October 1, 1997, through March 31, 1998,''.

(b) FEDERAL LANDS HIGHWAYS.—Section 1003(a)(6) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1919) is amended—

(1) in subparagraph (A)—

(A) by striking ''1992 and'' and inserting ''1992,''; and

(B) by inserting before the period at the end the following: '', and $95,500,000 for the period of October 1, 1997, through March 31, 1998'';

(2) in subparagraph (B)—

(A) by striking ''1995, and'' and inserting ''1995,''; and

(B) by inserting before the period at the end the following: ''and $86,000,000 for the period of October 1, 1997, through March 31, 1998''; and

(3) in subparagraph (C)—

(A) by striking ''1995, and'' and inserting ''1995,''; and

(B) by inserting before the period at the end the following: '', and $42,000,000 for the period of October 1, 1997, through March 31, 1998''.

(c) CERTAIN ALLOCATED PROGRAMS.—

(1) HIGHWAY USE TAX EVASION.—Section 1040(f)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat 1992) is amended in the first sentence by inserting before the period at the end the following: ''and $2,500,000 for the period of October 1, 1997, through March 31, 1998''.

(2) SCENIC BYWAYS PROGRAM.—Section 1047(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1998) is amended in the first sentence—

(A) by striking ''1994, and'' and inserting ''1994,''; and

(B) by inserting before the period at the end the following: '', and $7,000,000 for the period of October 1, 1997, through March 31, 1998''.

(3) FERRY BOAT CONSTRUCTION.—Section 1064(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 129 note; 105 Stat. 2005) is amended—

(A) by striking ''1996, and'' and inserting ''1996,''; and

(B) by inserting after ''1997'' the following: '', and $9,000,000 for the period of October 1, 1997, through March 31, 1998,''.

(d) FISCAL YEAR 1998 OBLIGATION LIMITATION.—

(1) IN GENERAL.—Section 1002 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1916) is amended—

(A) in subsection (a)—

(i) in paragraph (5), by striking ''and'' at the end;

(ii) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(7) $21,500,000,000 for fiscal year 1998.''; and

(B) by adding at the end the following:

''(h) SPECIAL RULE FOR FISCAL YEAR 1998.—The Secretary shall distribute—

''(1) on October 1, 1997, 50 percent of the limitation on obligations for Federal-aid highways and highway safety construction programs imposed by the Department of Transportation and Related Agencies Appropriations Act, 1998; and

''(2) on July 1, 1998, 50 percent of the limitation.''.

(2) LIMITATION.—Nothing in this section (including the amendments made by this section) shall apply to any funds made available before October 1, 1997, for carrying out—

(A) sections 125 and 157 of title 23, United States Code; and

(B) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027).

SEC. 3. EXTENSION OF HIGHWAY SAFETY PROGRAMS.

(a) NHTSA HIGHWAY SAFETY PROGRAMS.—Section 2005 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2079) is amended—

(1) in paragraph (1)—

(A) by striking ''1996, and'' and inserting ''1996,''; and

(B) by inserting before the period at the end the following: '', and $83,000,000 for the period of October 1, 1997, through March 31, 1998''; and

(2) in paragraph (2), by inserting before the period at the end the following: ''and $22,000,000 for the period of October 1, 1997, through March 31, 1998''.

(b) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.—Section 410 of title 23, United States Code, is amended—

(1) in subsection (c)—

(A) by striking ''5'' and inserting ''6''; and

(B) in paragraph (3), by striking ''and fifth'' and inserting ''fifth, and sixth'';

(2) in subsection (d)(2)(B), by striking ''two'' and inserting ''3''; and

(3) in the first sentence of subsection (j)—

(A) by striking ''1997, and'' and inserting ''1997,''; and

(B) by inserting before the period at the end the following '', and $12,500,000 for the period of October 1, 1997, through March 31, 1998''.

(c) NATIONAL DRIVER REGISTER.—Section 30308(a) of title 49, United States Code, is amended—

(1) by striking ''1994, and'' and inserting ''1994,''; and

(2) by inserting after ''1997,'' the following: ''and $1,855,000 for the period of October 1, 1997, through March 31, 1998,''.

(d) OBLIGATION LIMITATION.—The total of all obligations for highway traffic safety grants under sections 402 and 410 of title 23, United States Code, for fiscal year 1998 shall not exceed $186,500,000.

SEC. 4. FEDERAL TRANSIT PROGRAMS.

(a) ALLOCATING AMOUNTS.—Section 5309(m)(1) of title 49, United States Code, is amended by inserting '', and for the period of October 1, 1997, through March 31, 1998'' after ''1997''.

(b) APPORTIONMENT OF APPROPRIATIONS FOR FIXED GUIDEWAY MODERNIZATION.—Section 5337 of title 49, United States Code, is amended—

(1) in subsection (a), by inserting ''and for the period of October 1, 1997, through March 31, 1998,'' after ''1997,''; and

(2) by adding at the end the following:

''(e) SPECIAL RULE FOR OCTOBER 1, 1997, THROUGH MARCH 31, 1998.—The Secretary shall determine the amount that each urbanized area is to be apportioned for fixed guideway modernization under this section on a pro rata basis to reflect the partial fiscal year 1998 funding made available by section 5338(b)(1)(F).''.

(c) AUTHORIZATIONS.—Section 5338 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by adding at the end following:

''(F) $1,284,792,000 for the period of October 1, 1997, through March 31, 1998.''; and

(B) in paragraph (2), by adding at the end the following:

''(F) $213,869,000 for the period of October 1, 1997, through March 31, 1998.'';

(2) in subsection (b)(1), by adding at the end the following:

''(F) $1,162,708,000 for the period of October 1, 1997, through March 31, 1998.'';

(3) in subsection (c), by inserting ''and not more than $1,500,000 for the period of October 1, 1997, through March 31, 1998,'' after ''1997,'';

(4) in subsection (e), by inserting ''and not more than $3,000,000 is available from the Fund (except the Account) for the Secretary for the period of October 1, 1997, through March 31, 1998,'' after ''1997,'';

(5) in subsection (h)(3), by inserting ''and $3,000,000 is available for section 5317 for the period of October 1, 1997, through March 31, 1998'' after ''1997'';

(6) in subsection (j)(5)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(D) the lesser of $1,500,000 or an amount that the Secretary determines is necessary is available for the period of October 1, 1997, through March 31, 1998.'';

(7) in subsection (k), by striking ''or (e)'' and inserting ''(e), or (m)''; and

(8) by adding at the end the following:

''(m) SECTION 5316 FOR THE PERIOD OF OCTOBER 1, 1997, THROUGH MARCH 31, 1998.—Not more than the following amounts may be appropriated to the Secretary from the Fund (except the Account) for the period of October 1, 1997, through March 31, 1998:

''(1) $125,000 to carry out section 5316(a).

''(2) $1,500,000 to carry out section 5316(b).

''(3) $500,000 to carry out section 5316(c).

''(4) $500,000 to carry out section 5316(d).

''(5) $500,000 to carry out section 5316(e).''.

(d) OBLIGATION LIMITATIONS.—

(1) DISCRETIONARY GRANTS AND LOANS.—The total of all obligations from the Mass Transit Account of the Highway Trust Fund for carrying out section 5309 of title 49, United States Code, relating to discretionary grants and loans, for fiscal year 1998 shall not exceed $2,000,000,000.

(2) FORMULA TRANSIT PROGRAMS.—The total of all obligations for formula transit programs under sections 5307, 5310, 5311, and 5336 of title 49, United States Code, for fiscal year 1998 shall not exceed $2,210,000,000.

SEC. 5. EXTENSION OF MOTOR CARRIER SAFETY PROGRAM.

(a) MOTOR CARRIER SAFETY FUNDING.—Section 31104(a) of title 49, United States Code, is amended—

(1) in paragraphs (1) through (5), by striking ''not more'' each place it appears and inserting ''Not more''; and

(2) by adding at the end the following:

''(6) Not more than $45,000,000 for the period of October 1, 1997, through March 31, 1998.''.

(b) OBLIGATION LIMITATION.—The total of all obligations for carrying out the motor carrier safety program under section 31102 of title 49, United States Code, for fiscal year 1998 shall not exceed $85,325,000.

SEC. 6. EXTENSION OF RESEARCH PROGRAMS.

(a) BUREAU OF TRANSPORTATION STATISTICS.—Section 6006 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2172) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Chapter I''; and

(2) in the first sentence of subsection (b)—

(A) by striking ''1996, and'' and inserting ''1996,''; and

(B) by inserting before the period at the end the following: '', and $12,500,000 for the period of October 1, 1997, through March 31, 1998''.

(b) INTELLIGENT TRANSPORTATION SYSTEMS.—Section 6058(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2194) is amended—

(1) by striking ''1992 and'' and inserting ''1992,''; and

(2) by inserting before the period at the end the following: '', and $56,500,000 for the period of October 1, 1997, through March 31, 1998''.

(c) RESEARCH AND TECHNOLOGY PROGRAM.—Section 307 of title 23, United States Code, is amended in subsections (b)(2)(B), (e)(13), and (f)(4) by inserting after ''1997'' each place it appears the following: ''and for the period of October 1, 1997, through March 31, 1998,''.

(d) EDUCATION AND TRAINING PROGRAM.—Section 326(c) of title 23, United States Code, is amended in the second sentence by inserting after ''1997'' the following: '', and for the period of October 1, 1997, through March 31, 1998,''.

SEC. 7. 1-YEAR EXTENSION OF HIGHWAY TRUST FUND EXPENDITURES.

(a) GENERAL EXPENDITURE AUTHORITY AND PURPOSES.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''October 1, 1997'' and inserting ''October 1, 1998''; and

(2) by striking the last sentence and inserting the following new flush sentence:

''In determining the authorizations under the Acts referred to in the preceding subparagraphs, such Acts shall be applied as in effect on the date of the enactment of this sentence.''.

(b) TRANSFERS TO OTHER ACCOUNTS.—

(1) Paragraphs (4)(A)(i) and (5)(A) of section 9503(c), and paragraph (3) of section 9503(e), of such Code are each amended by striking ''October 1, 1997'' and inserting ''October 1, 1998''.

(2) Subparagraph (E) of section 9503(c)(6) of such Code is amended by striking ''September 30, 1997'' and inserting ''September 30, 1998''.

(c) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended—

(1) by striking ''October 1, 1997'' and inserting ''October 1, 1998''; and

(2) by striking all that follows ''the enactment of'' and inserting ''the last sentence of subsection (c)(1).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

Amend the title so as to read: ''A bill to authorize through March 31, 1998, funds for construction of highways, for highway safety programs, and for mass transit programs.''.

SPECTER AMENDMENT NO. 1377

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

On page 117, after line 22, insert the following:

''(5) MAGLEV PILOT PROJECT.—Notwithstanding any other provision of this section, of the amounts made available for fiscal year 1999 by this section, $5,000,000 shall be available to carry out conceptual design and development of a high speed MAGLEV project for which initial research and development funds were provided in 1991 by the Federal Transit Administration and which is intended to serve an international airport in Western Pennsylvania.''

ABRAHAM (AND LEVIN) AMENDMENTS NOS. 1378–1383

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself and Mr. LEVIN) submitted six amendments intended to be proposed by them to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1378

On page 136, after line 22, add the following:

SEC. 11 . AMBASSADOR BRIDGE ACCESS, DETROIT, MICHIGAN.

Notwithstanding section 129 of title 23, United States Code, or any other provision of law, improvements to and construction of access roads, approaches, and related facilities (such as signs, lights, and signals) necessary to connect the Ambassador Bridge in Detroit, Michigan, to the Interstate System shall be eligible for funds apportioned under paragraphs (1) and (3) of section 104(b) of that title.

AMENDMENT NO. 1379

On page 309, between lines 3 and 4, insert the following:

SEC. 18 . MODIFICATION OF HIGH PRIORITY CORRIDOR.

Section 1105(c)(18) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended—

(1) by striking ''(18) Corridor from Indianapolis,'' and inserting the following:

''(18)(A) Corridor from Sarnia, Ontario, Canada, through Port Huron, Michigan, southwesterly along Interstate Route 69 through Indianapolis,''; and

(2) by adding at the end the following:

''(B) Corridor from Sarnia, Ontario, Canada, southwesterly along Interstate Route 94 to the Ambassador Bridge interchange in Detroit, Michigan.

''(C) Corridor from Windsor, Ontario, Canada, through Detroit, Michigan, westerly along Interstate Route 94 to Chicago, Illinois.''.

AMENDMENT NO. 1380

On page 309, between lines 3 and 4, insert the following:

SEC. 18 . INTERNATIONAL BRIDGE, SAULT STE. MARIE, MICHIGAN.

The International Bridge authority, or its successor organization, shall be permitted to continue collecting tolls for maintenance of, operation of, capital improvements to, and future expansions to the International Bridge, Sault Ste. Marie, Michigan, and its approaches, plaza areas, and associated structures.

AMENDMENT NO. 1381

On page 304, after line 24, add the following:

(p) CREDITING OF CONTRIBUTIONS BY UNITS OF LOCAL GOVERNMENT TOWARD THE STATE SHARE.—Section 323 of title 23, United States Code, is amended by adding at the end the following:

''(e) CREDITING OF CONTRIBUTIONS BY UNITS OF LOCAL GOVERNMENT TOWARD THE STATE SHARE.—A contribution of real property, funds, material, or a service in connection with a project elegible for assistance under this title shall be credited against the State share of the project at the fair market value of the real property, funds, material, or service.''.

AMENDMENT NO. 1382

On page 136, after line 22, add the following:

SEC. 11 . NATIONAL DEFENSE HIGHWAY PROGRAM.

Section 311 of title 23, United States Code, is amended—

(1) by striking ''Funds made available'' and inserting the following:

''(a) USE OF ADMINISTRATIVE FUNDS.—Funds made available'';

(2) by striking ''construction of projects for'' and inserting the following: ''construction of—

''(1) projects for''; and

(3) by striking ''may designate. With the consent'' and inserting the following: ''may designate; and

''(2) transportation projects associated with the economic redevelopment of real property that was the subject of a base closure.

''(b) USE OF APPORTIONED FUNDS.—With the consent''.

AMENDMENT NO. 1383

On page 156, strike lines 18 through 24 and insert the following:

(1) in subsection (c), by striking ''subsection (b)(1)'' and inserting ''subsections (b)(1) and (d)(3)(B)(ii)'';

(2) in subsection (d)—

(A) in paragraph (2), by striking ''10'' and inserting ''8''; and

(B) in paragraph (3)—

(i) in the first sentence of subparagraph (A), by striking ''80'' and inserting ''82''; and

(ii) in subparagraph (B)—

(I) by striking ''Of the amounts required tobe'' and inserting the following:

''(i) IN GENERAL.—Of the amounts required to be''; and

(II) by adding at the end the following:

''(ii) ROADS CLASSIFIED AS MINOR COLLECTORS.—Not more than 15 percent of the amounts required to be obligated under this subparagraph may be obligated for roads functionally classified as minor collectors.''; and

(3) in subsection (e)—

ABRAHAM AMENDMENT NO. 1384

(Ordered to lie on the table.)

Mr. ABRAHAM submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

On page 156, strike line 18 and insert the following:

(1) in subsection (b)(9), by striking ''section 108(f)(1)(A) (other than clauses (xii) and (xvi)) of the Clean Air Act'' and inserting ''section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A))'';

(2) in subsection (d)—

On page 156, line 24, strike ''(2)'' and insert ''(3)''.

ABRAHAM (AND LEVIN) AMENDMENT NO. 1385

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by them to the bill, S. 1173, supra; as follows:

On page 130, strike lines 19 through 22 and insert the following:

(4) in paragraph (3)—

(A) by inserting ''or maintenance of the standard'' after ''standard''; and

(B) by striking ''or'' at the end;

(5) in paragraph (4)—

(A) by inserting ''or maintenance'' after ''attainment''; and

(B) by striking the period at the end and inserting ''; or''; and

(6) by inserting after paragraph (4) the following:

''(5) to purchase mass transit vehicles or to construct mass transit facilities.''.

ABRAHAM AMENDMENT NO. 1386

(Ordered to lie on the table.)

Mr. ABRAHAM submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

At the end of the amendment add the following:

SEC. . BLOCK GRANT ACCOUNT.

Section 9503 of the Internal Revenue Code of 1986 (relating to Highway Trust Fund), as amended by section 901(d) of the Taxpayer Relief Act of 1997, is amended by adding at the end the following:

''(f) ESTABLISHMENT OF BLOCK GRANT ACCOUNT.—

''(1) CREATION OF ACCOUNT.—There is established in the Highway Trust Fund a separate account to be known as the 'Block Grant Account', consisting of such amounts as may be transferred or credited to the Block Grant Account as provided in this subsection or section 9602(b).

''(2) TRANSFERS TO BLOCK GRANT ACCOUNT.—

''(A) IN GENERAL.—The Secretary of the Treasury shall transfer to the Block Grant Account the block grant portion of the amounts appropriated to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4041 and 4081 imposed after September 30, 1997.

''(B) BLOCK GRANT PORTION.—For purposes of subparagraph (A), the term 'block grant portion' means an amount determined at the rate of .3 cent for each gallon with respect to which tax was imposed under section 4041 or 4081.

''(3) EXPENDITURES FROM ACCOUNT.—

''(A) IN GENERAL.—The applicable percentage of the amounts in the Block Grant Account shall be available, as provided by appropriation Acts, to each State for making expenditures after September 30, 1997, for projects which are or would otherwise be funded under the Intermodal Surface Transportation Efficiency Act of 1997.

''(B) APPLICABLE PERCENTAGE.—The applicable percentage for any State in any fiscal year is the State's percentage of the total expenditures allocated to all States from the Highway Trust Fund (other than the Block Grant Account) for the preceding fiscal year.

''(C) ENFORCEMENT.—If the Secretary determines that a State has used funds under this paragraph for a purpose that is not described in subparagraph (A), the amount of the improperly used funds shall be deducted from any amount the State would otherwise receive from the Highway Trust Fund for the fiscal year that begins after the date of the determination.''.

DOMENICI AMENDMENTS NOS. 1387–1394

(Ordered to lie on the table.)

Mr. DOMENICI submitted eight amendments intended to be proposed by him to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1387

Beginning on page 339, strike line 11 and all that follows through page 341, line 16, and insert the following:

''(ii) in cooperation with other Federal departments, agencies, and instrumentalities and multipurpose Federal laboratories; or

''(iii) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, the National Academy of Sciences, the American Association of State Highway and Transportation Officials, or any State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person.

''(C) TECHNICAL INNOVATION.—The Secretary shall develop and carry out programs to facilitate the application of such products of research and technical innovations as will improve the safety, efficiency, and effectiveness of the transportation system.

''(D) FUNDS.—

''(i) IN GENERAL.—Except as otherwise specifically provided in other sections of this chapter—

''(I) to carry out this subsection, the Secretary shall use—

''(aa) funds made available under section 541 for research, technology, and training; and

''(bb) such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose; and

''(II) the funds described in item (aa) shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

''(ii) USE OF FUNDS.—The Secretary shall use funds described in clause (i) to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this section.

''(2) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

''(A) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

''(i) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State; and

''(ii) multipurpose Federal laboratories.

AMENDMENT NO. 1388

On page 385, line 13, strike ''and'' after the semicolon.

On page 385, line 17, strike the period and insert a semicolon.

On page 385, between lines 17 and 18, insert the following:

''(15) to promote the deployment of new intelligent transportation system technologies at international ports of entry into the United States to detect and deter illegal narcotic smuggling; and

''(16) to promote the deployment of intelligent transportation systems to expedite the movement of commercial cargo through international ports of entry into the United States.

AMENDMENT NO. 1389

On page 371, line 6, strike ''and'' after the semicolon.

On page 371, line 10, strike the period and insert ''; and''.

On page 371, between lines 10 and 11, insert the following:

''(6) the development of new nondestructive bridge evaluation technologies and techniques.

AMENDMENT NO. 1390

At the appropriate place, insert the following:

SEC. . DESIGNATION OF NEW MEXICO COMMERCIAL ZONE.

(a) COMMERCIAL ZONE DEFINED.—The term ''commercial zone'' means a zone containing lands adjacent to, and commercially a part of, 1 or more municipalities with respect to which the exception described in section 13506(b)(1) of title 49, United States Code, applies.

(b) DESIGNATION OF ZONE.—

(1) IN GENERAL.—The area described in paragraph (2) is designated as a commercial zone, to be known as the ''New Mexico Commercial Zone''.

(2) DESCRIPTION OF AREA.—The area described in this paragraph is the area that is comprised of Dona Aña County and Luna County in New Mexico.

(c) SAVINGS PROVISION.—Nothing in this Act shall affect any action commenced, or pending before the Secretary of Transportation or Surface Transportation Board before the date of enactment of this Act.

AMENDMENT NO. 1391

On page 320, strike lines 11 and 12 and insert the following:

''(I) surface transportation safety;

''(J) infrastructure finance studies; or

''(K) development and testing of innovative technologies for bridge construction and nondestructive evaluation.

AMENDMENT NO. 1392

On page 98 line 13, insert '', and is projected to grow in the future,'' after ''103–182)''.

On page 98 line 17, insert '', and is projected to grow,'' after ''grown''.

AMENDMENT NO. 1393

On page 389, line 4, insert ''the national laboratories,'' after ''universities,''.

AMENDMENT NO. 1394

On page 122, line 6, strike ''of the'' and insert the following: ''of—

(1) the''.

On page 122, line 11, strike the period and insert ''; and''.

On page 122, between lines 11 and 12, insert the following:

(2)(A) Interstate Business Loop 35 in Santa Rosa, New Mexico, connecting United States Route 84 and United States Route 54 to Interstate Route 40;

(B) New Mexico Route 14 in Sante Fe, New Mexico, connecting Interstate Route 25 and United States Route 84; and

(C) United States Route 550 from Farmington, New Mexico, to Aztec, New Mexico.

BROWNBACK AMENDMENT NO. 1395

(Ordered to lie on the table.)

Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

On page 156, strike lines 19 and 20 and insert the following:

(A) in paragraph (2)—

(i) by striking ''ACTIVITIES.—10'' and inserting the following: ''ACTIVITIES.—

''(A) IN GENERAL.—Subject to subparagraph (B), 8''; and

(ii) by adding at the end the following:

''(B) WAIVER BY THE SECRETARY.—The Secretary may waive the application of subparagraph (A) with respect to a State upon receipt of a petition from the State requesting the waiver.''; and

DOMENICI AMENDMENT NO. 1396

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

On page 345, strike line 14 and insert the following: report required under section 5221(d) of title 49.

''(d) REVISED NATIONAL LABORATORY OVERHEAD RATES.—In connection with activities conducted under this section through a national laboratory, the Secretary of Energy shall establish a revised overhead rate that—

''(1) is commensurate with services of the national laboratory actually used by the Secretary of Transportation; and

''(2) does not reflect overhead charges associated with legacy wastes and security for nuclear operations or any other additional charges.''.

BYRD (AND OTHERS) AMENDMENT NO. 1397

(Ordered to lie on the table.)

Mr. BYRD (for himself, Mr. GRAMM, Mr. BAUCUS, Mr. WARNER, Mr. AKAKA, Mr. ASHCROFT, Mr. BREAUX, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. CLELAND, Mr. COATS, Mr. COVERDELL, Mr. DEWINE, Mr. DORGAN, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mr. FORD, Mr. GRAMS, Mr. HARKIN, Mr. HOLLINGS, Mr. HUTCHINSON, Mr. INHOFE, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Ms. LANDRIEU, Mr. LEAHY, Mr. LIEBERMAN, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, and Mr. SPECTER) submitted an amendment intended to be proposed by them to the bill, S. 1173, supra; as follows:

Strike the last word and insert the following:

SEC. 1128. GAS TAX HONESTY PROGRAM.

(a) IN GENERAL.—

(1) APPORTIONMENT.—On October 1 of each fiscal year, the Secretary shall apportion the funds authorized for the gas tax honesty program under this subsection among the States in the ratio that—

(A) the total of the apportionments to each State under section 104 of title 23, United States Code, and allocations to each State under section 105(a) of that title; bears to

(B) the total of all apportionments to all States under section 104 of that title and allocations to all States under section 105(a) of that title.

(2) ELIGIBLE PROJECTS.—A State may obligate funds authorized for the gas tax honesty program under this subsection for any project eligible for funding under section 133(b) of title 23, United States Code.

(3) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $5,370,000,000 for fiscal year 1999, $5,471,000,000 for fiscal year 2000, $5,573,000,000 for fiscal year 2001, $5,676,000,000 for fiscal year 2002, and $5,781,000,000 for fiscal year 2003.

(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(4) TREATMENT OF APPORTIONMENTS.—Fifty percent of the amounts apportioned under paragraph (1) shall be subject to section 133(d) of title 23, United States Code.

(b) SPENDING ADJUSTMENT FOR HIGHWAY PROGRAMS.—

(1) IN GENERAL.—If—

(A) the baseline projections for the fiscal year 1999 budget resolution contain the savings in budget outlays for fiscal years 1998 through 2002 (as compared to budget outlay levels projected in the Balanced Budget Agreement) that are contained in the President's fiscal year 1998 midsession review; and

(B) the assumptions for the fiscal year 1999 budget resolution allow these outlay savings to be spent;

that resolution should ensure that any additional spending of these savings be used to fully fund the highway spending resulting from this Act, as modified by this section.

(2) MAXIMUM AMOUNT.—The amount of additional spending provided in the resolution shall not exceed the savings identified in paragraph (1)(A) for the applicable fiscal year.

(c) OTHER ADJUSTMENTS.—

(1) IN GENERAL.—Notwithstanding sections 1116, 1117, and 1118, and the amendments made by those sections—

(A) in lieu of the amounts authorized to be appropriated under section 1116(d)(5)—

(i) there shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 1116(d) $50,000,000 for fiscal year 1999 and $100,000,000 for each of fiscal years 2000 through 2003; and

(ii) there are authorized to be appropriated to carry out section 1116(d) $125,000,000 for fiscal year 1998 and $25,000,000 for each of fiscal years 1999 through 2003;

(B) in addition to the funds made available under the amendment made by section 1117(d), there shall be available from the Highway Trust Fund (other than the Mass Transit Account) in the manner described in, and to carry out the purposes specified in, that amendment $415,000,000 for fiscal year 1999, $415,000,000 for fiscal year 2000, $450,000,000 for fiscal year 2001, $440,000,000 for fiscal year 2002, and $480,000,000 for fiscal year 2003, except that the funds made available under this subparagraph—

(i) shall be subject to the obligation limitations established under section 1103 or any other provision of law; and

(ii) notwithstanding section 118(g)(1)(C)(v) of title 23, United States Code, shall be subject to subparagraphs (A) and (B) of section 118(g)(1) of that title; and

(C) in addition to the sums made available under section 1101(1), there shall be available from the Highway Trust Fund (other than the Mass Transit Account) for the Interstate and National Highway System program $90,000,000 for each of fiscal years 1999 through 2003, which funds shall be allocated by the Secretary for projects described in subparagraphs (A), (B), and (C) of section 104(k)(1) of title 23, United States Code, to any State for which—

(i) the ratio that—

(I) the State's percentage of total Federal-aid highway program apportionments and Federal lands highways program allocations under the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914), and allocations under sections 1103 through 1108 of that Act (105 Stat. 2027), for the period of fiscal years 1992 through 1997; bears to

(II) the percentage of estimated total tax receipts attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) for the period of fiscal years 1992 through 1997;

is less than or equal to 1.00;

(ii) the ratio that—

(I) the State's estimated percentage of total Federal-aid highway program apportionments for the period of fiscal years 1998 through 2003 under this Act; bears to

(II) the percentage of estimated total tax receipts attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) for the period of fiscal years 1998 through 2003;

is less than or equal to 1.00, as of the date of enactment of this Act; and

(iii) the State's estimated percentage of total Federal-aid highway program apportionments for the period of fiscal years 1998 through 2003 under this Act, as of the date of enactment of this Act, is less than the State's percentage of total Federal-aid highway program apportionments and Federal lands highways program allocations under the Intermodal Surface Transportation Efficiency Act of 1991, and allocations under sections 1103 through 1108 of that Act, for the period of fiscal years 1992 through 1997.

(2) CONTRACT AUTHORITY.—Funds authorized under subparagraphs (A)(i) and (C) of paragraph (1) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that funds made available under paragraph (1)(C) shall remain available until expended.

(3) LIMITATION.—No obligation authority shall be made available for any amounts authorized under this subsection in any fiscal year for which any obligation limitation established for Federal-aid highways is equal to or less than the obligation limitation established for fiscal year 1998.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Thursday, October 23, 1997, at 9 a.m.

in room 485 of the Russell Senate Office Building to conduct a markup on S. 109, to provide Federal housing assistance to native Hawaiians; S. 156, the Lower Brule Sioux Tribe Infrastructure Trust Fund Act; S. 1079, to permit the leasing of mineral rights within the boundaries of the Ft. Berthold Reservation; and H.R. 79, the Hoopa Valley Reservation South Boundary Adjustment Act.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Wednesday, October 29, 1997, at 9:30 a.m. in room 106 of the Dirksen Senate Office Building to conduct a hearing on S. 1077, a bill to amend the Indian Gaming Regulatory Act.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Thursday, October 30, 1997, at 9:30 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on the nomination of B. Kevin Gover to be Assistant Secretary for Indian Affairs, Department of the Interior.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

ADDITIONAL STATEMENTS

BOSNIA AND AMERICAN FOREIGN POLICY: FINISHING THE JOB

• Mr. DODD. Mr. President, on October 16, our colleague, Senator JOE BIDEN gave a very important and insightful assessment of United States foreign policy with respect to Bosnia. The occasion for those remarks was that Senator BIDEN was being honored by Fairleigh Dickinson University by being chosen as the first individual to hold a newly established chair at the university—the Fatemi University Chair in International Studies.

In accepting this honor, Senator BIDEN focused his remarks on a current and some what daunting foreign policy challenge that looms before us in the coming months—Bosnia. As is always the case, JOE gave his candid and unvarnished assessment of the current situation in Bosnia—what's gone right and what's gone wrong. He also sets forth how he believes U.S. policy should evolve over the coming months, if the United States is to enhance the prospects for fostering peace and stability in that war-torn country and in maintaining its leadership in shaping the course of world events. His comments were very thoughtful and very much on target from my point of view.

Mr. President, I urge all of my colleagues to take a moment to read Senator BIDEN's remarks. It would be time well spent.

I ask that the text of Senator BIDEN's remarks be printed in the RECORD.

The remarks follow:

BOSNIA AND AMERICAN FOREIGN POLICY: FINISHING THE JOB

(By Joseph R. BIDEN, Jr.)

I. INTRODUCTION

It would be a very high honor under any circumstances to be called to the fatemi university chair in international studies here at Farleigh Dickinson University.

Although I'm not sure I deserve the distinction, I feel honored to be the first to hold that chair.

This is for me, as I know it is for many of you, an extra-special occasion, and an extra-special honor.

Not only because of the very high standing in the foreign policy community the graduate institute of international studies has earned for Farleigh Dickinson.

Not just because of the pre-eminent position Dr. Fatemi occupied in the field of international studies,

But also because I have had the very great privilege of knowing Dr. Fatemi and his family personally, through the friendship of his son Fariborz. So besides an opportunity to discuss foreign policy with you, this is a kind of homecoming for me.

That's the way Dr. Fatemi and his family made even a stranger feel upon entering their household, and that kind of hospitality was a direct reflection of the kind of man he was.

I knew beforehand of his record as a diplomat, as a writer and teacher, and as an exemplar of the richness and integrity of an ancient but still vital culture.

What I discovered when I met him was that the man was even more impressive than his credentials. Despite his many achievements, he always put his newest acquaintance instantly at ease.

If you were his guest, he became your friend, and when he was your friend, you became, eagerly and irresistibly, his student. That was not just because of his learning and the experience he gained over a long and productive life.

He became a valued friend and mentor primarily because it was his nature to do so. He was undeniably bright and intellectually challenging. But he was also gentle, unassuming and encouraging.

He taught by example rather than precept; he radiated wisdom and good will in equal measure.

It was impossible not to leave his presence wiser than you arrived.

The breadth of his scholarship was astonishing, and simply being exposed to it was an invigorating experience.

But it was the clarity of his insights into the maelstrom of the Middle East and the passions of the islamic fundamentalists that were most valuable to me.

The views I am about to express on Bosnia, are, of course, mine alone. But if I manage to shed any light on that bloody confrontation, much of the credit must go to Nasrollah Fatemi, who opened his hearth, his heart and his mind to me in a way I shall never forget.

Bosnia, of course, has significance far beyond the borders of the former Yugoslavia.

It has turned out to be one of the most serious challenges for America's foreign policy in the post-cold-war era. It has produced 5 years of debate in congress. It is the centerpiece of any discussion about American military intervention around the world. In short, it has become a critical test of our foreign policy.

Rightly or wrongly, whether United States foreign policy in this era is viewed as a success or failure will depend in large part on the success or failure of our policy in Bosnia. So we better get it right.

II. FROM ''LIFT AND STRIKE'' TO DAYTON

At the outset, let me state the obvious: I have cared deeply about Bosnia for a long time, since the beginning of the war. Some would say I bring ''historical baggage'' to the issue. I care not just because of the strategic implications—as Bosnia goes, so goes NATO—but for humanitarian reasons.

Appalled by the naked Serbian aggression and genocidal attacks on Bosnian civilians, in September 1992 I called for a ''lift and strike'' policy. That was shorthand for lifting the illegal and immoral arms embargo against the Bosnian Government, which was the victim of aggression, and launching air strikes against the Bosnian Serb aggressors.

My views were not widely shared at that time. As the war escalated—with massacres, ''ethnic cleansing,'' and rapes—a few other senators, including Bob Dole and JOE LIEBERMAN, joined my call for action. But it took more than two years of failed diplomacy—and a quarter-million killed and two million homeless—before we finally came around to the much-derided ''lift and strike'' policy in the fall of 1995.

Guess what? The policy worked! The Serbian bullies sued for peace, and under the leadership of Ambassador Dick Holbrooke we were able to hammer out the Dayton accords in November 1995. I'm leaving out the details—all the peace plans that didn't work—but in a nutshell that's what happened.

Honest people may disagree about the compromises that were made at Dayton. I think the accords accomplished as much as we could have hoped for, given the obvious reluctance of our Government, and of our European allies, to get more deeply involved militarily.

And I wish I could say that even the modest results envisioned in Dayton had been achieved. But they have not. It's true that conditions today are far better than the bloody mayhem that existed during the war. The killing has stopped.

But we are only halfway to the full peace envisioned in the Dayton accords. The question is: ''How do we get the rest of the way? How do we finish the job?

III. BOSNIA TODAY

Having returned 6 weeks ago from my third trip to Bosnia, I am certainly aware of the contradictions, the ambiguities, the ironies, and the uncertainties of Bosnia today. Bosnia and Herzegovina might be labeled the classical land of ''yes, but.''

Yes, there has been ongoing conflict among the various religious groups in Bosnia—the Orthodox Serbs, the Catholic Croats, and the Muslim South Slavs—for centuries.

But, for most of the time, these conflicts were kept under control, usually by an outside hegemon: first the Ottoman Turks, then the Austrian Habsburgs, and more recently the Communists under President Tito.

When violence broke out in the spring of 1992, a cosmopolitan society existed in much of Bosnia. Sarajevo, for example, had one of the highest rates of inter-marriage in all of Europe. What killed the ''live and let live'' character of Sarajevo were unscrupulous, ultra-nationalist politicians, many of whom were searching for a new ''-ism'' to replace communism, an ideology that had been discredited.

Yes, there were elements of civil war in Bosnia, but there was also blatant aggression from Serbia across an internationally recognized border. In fact, it was through the overwhelming advantage of the weaponry, the salaries, and the support services furnished by Slobodan Milosevic that the Bosnian Serbs perpetrated their systematic slaughter.

The ''yes, but'' dichotomy persists in Bosnia today.

Yes there has been considerable progress in Bosnia since Dayton, but a huge amount remains to be accomplished.

Yes the 50 percent unemployment rate in the Bosnian Croat Federation is huge, but it has come down from 90 percent in only one year. Incidentally, it still hovers at 90 percent in the Republika Srpska, which has been denied all but a trickle of international aid because it has refused to implement the Dayton accords.

Yes, Bosnian Serbs regularly try to paralyze many of the institutions of national government created at Dayton, but the Parliament has begun to meet, and even the three-member presidency shows signs of life.

Yes, the nationalist parties representing the Serbs, Muslims, and Croats are narrow-minded and corrupt, and in many ways resemble the characteristics of the old Yugoslav league of Communists, which they supplanted.

But even in this cynical Bosnian political arena there is hope. In last month's municipal elections a non-nationalist, multi-ethnic coalition triumphed in Tuzla, one of Bosnia's largest cities.

A non-nationalist opposition also exists in the Republika Srpska. I met with three of its leaders in Banja Luka. They are confident that they—not Kardžić and his thugs from Pale, not President Plavšić—are the wave of the future.

Yes, more than two-thirds of the indicted war criminals remain at large—an international disgrace. But, ladies and gentlemen, just last week, under strong pressure from Washington, Croatia and the Bosnian Croats surrendered 10 indicted Bosnian Croats to the Hague.

Virtually every observer of Bosnia believes that Dayton cannot be implemented until indicted war criminals are indicted and transported to the International Tribunal at the Hague to stand trial.

The other major precondition for progress in Bosnia is the return of refugees and displaced persons that was mandated by the Dayton accords.

Yes, this will be the most difficult of all the Dayton tasks to accomplish.

But , contrary to popular belief, even here there has been noteworthy progress. As many as 150,000 refugees have returned to Bosnia from abroad, and another 160,000 persons who were displaced within Bosnia have returned to their homes.

Most of these have returned to areas where their ethnic group is in the majority, but an ''open cities'' program has induced several towns—even a half-dozen villages in the Republika Srpska—to accept returnees from other groups in return for economic assistance.

On my last trip, I visited one of these sites in a suburb of Sarajevo occupied by the Bosnian Serbs during the war and returned to the federation by Dayton. The U.S. Agency for International Development and its subcontractor, Catholic Relief Services, are helping returning refugees to rebuild their homes.

I was moved by the selfless dedication of the young Americans and Europeans working at this important task.

Finally let me address the issue of security in Bosnia today. In a country that has recently suffered some of the worst atrocities of the 20th century, the citizens need physical security. For the Muslims and Croats, who were forced into an alliance in 1994 by the United States, this means guaranteeing their ability to deter renewed Serbian aggression in the future.

Toward that end, the ''train and equip'' program, led by retired U.S. military officers, is molding a unified force under joint command. We have supplied three hundred million dollars worth of equipment. I visited the training center in Hadžići (haj-eech-ee), near Sarajevo, where Muslims and Croats are studying and training.

On the local level, in the Federation, multi-ethnic police forces are being formed. Believe it or not, joint Muslim-Croat police units are now patrolling Mostar, scene of some of the worst warfare in 1993 and early 1994. So there is progress here as well.

IV. NEXT STEPS

In citing these examples of progress, I do not want to suggest for a moment that conditions in the Federation, let alone in the Republika Srpska, are rosy.

They are not. But everyone to whom I spoke in Bosnia agreed on two things: First, significant progress has been made in the Federation; and second, it is absolutely essential for the international military force to remain in Bosnia after June 1998 to guarantee that progress will continue.

So what should our policy be in Bosnia in the coming months? I believe we should redouble the efforts we are already making.

Yes, I would like to see a multi-ethnic, multi-religious society re-emerge like the one that existed in Sarajevo before the war. But, I fear that too much blood has been shed and too many atrocities committed for that to happen in the near future.

More realistic, and politically feasible, is the development of a multi-ethnic state. Most likely that will mean a confederation with a good degree of de-centralization in all but foreign policy and defense.

Am I sure that we can achieve the goal of a democratic, decentralized Bosnia? No, I am not. Last year I would have rated the odds 1 in 20.

As a result of the progress made in the last 12 months, I would now estimate the odds on success at about 50-50, if we stay the course.

But 50-50 looks mighty good compared to the probable outcome if we followed the advice of those now calling for a renegotiation of Dayton and a formal partition of Bosnia. ''Snatching defeat from the jaws of victory'' might be a slight exaggeration, but this policy prescription tends in that direction.

Those who favor partition seem unaware of the progress already made in Bosnia and blind to the calamities that would result from scrapping Dayton.

Warfare would almost certainly erupt again, with higher casualties, given the new military balance.

But renewed fighting would only be part of the tragedy. The vile ethnic cleansers and the war criminals would see their policies vindicated. Europe's remaining anti-democratic rulers like Serbia's Milosević and Belarus's Lukashenka would be emboldened.

Moreover, if we pulled the plug on Bosnia just as international efforts are beginning to bear fruit, we could kiss goodbye American leadership in NATO. In fact, the plan to enlarge NATO, I predict, would fail in the Senate.

And soon thereafter, even the future of NATO itself would be cast in doubt. After all, if Bosnia is the prototypical European crisis of the 21st century—and if NATO is unable to solve Bosnia—then why bother spending billions of dollars on NATO every year?

So, leaving Bosnia would be a fool's paradise. Just as certainly as night follows day, an American abdication of responsibility and withdrawal from Bosnia would eventually cost us more in blood and treasure than we would ever spend in the current course.

Let me sum up: the tragedy in Bosnia and Herzegovina, although complex, ultimately boils down to old-fashioned oppression. It was preventable, and, with the requisite American and European steadfastness, it is solvable.

By continuing to lead the effort to put Bosnia and Herzegovina back on its feet and guarantee its citizens a chance to lead productive lives, the United States will be both living up to its ideals and furthering its national self-interest. Thank you.●

NATIONAL TESTING

● Mr. CRAIG. Mr. President, as you know, the Labor/HHS/Education conference committee is considering funding for national education testing. I want to make it clear where I stand on this important issue and point out to my fellow conferees the task before us.

While I support higher standards for our schools, I cannot support national testing. National testing, despite what some of its supporters might say, is the first step toward a unified national curriculum. It is my firm belief that these decisions are better left to the States and locally elected school boards.

Some might argue that testing to a national standard would not affect curriculum. However, to do well on the tests, students will have to be taught accordingly. This was pointed out by Acting Secretary of Education Marshall Smith who said: ''to do well in the national tests, curriculum and instruction would have to change.''

Even the Washington Post agrees that the test would be ''a dramatic step toward a national guideline for what students should be learning in core subjects.''

Mr. President, the schools of Idaho are doing well, and our students continually score above the national average in core subjects, without being told what and how to teach by Washington bureaucrats.

Supporters of the tests argue that a national standard would be acceptable because it would be based on standards developed by the Department of Education: the National Assessment of Education Progress [NAEP]. However, the NAEP framework is fundamentally flawed. These standards are so out-of-touch that no State in 50 has adopted them. Now we're being asked to force the States to teach within the NAEP framework.

Most offensive, Mr. President, is the fact that the NAEP framework does not measure basic skills or the student's ability to perform tasks. The NAEP framework focuses on whole language and new math concepts and awards credit for more than one response, even if the response is wrong. National testing would force local school districts to adopt these flawed strategies.

I believe that the correct course for us to take is to direct resources to the classroom instead of forcing national standards on teachers and students. Let's assist local educators and our students in rising to the existing standards—standards set and supported by local and State leaders.

Mr. President, the Senate has voted on this matter once, when the appropriations bill was on the floor. I, along with most of our colleagues, voted for the compromise offered by Mr. GREGG. This vote has been interpreted by some, including many in the administration, as Senate support for national testing. This is not the case, and I caution anyone from reading too much into that particular vote.

I voted for the compromise, and I do not support national testing in any form. The true message of the vote is the Senate's willingness to alter the President's proposal and its interest in the language included in the House version of the bill.

Finally, Mr. President, let me publicly thank my colleague, Senator ASHCROFT, for his leadership on this issue. I am pleased to cosponsor his measure, S. 1215, which would prohibit the Federal Government from developing these flawed national tests.●

A TRIBUTE TO RUTH BECKER

● Mr. KOHL. Mr. President, I rise today to honor a distinguished Wisconsinite, Mrs. Ruth (Nowicki) Becker of Altoona, WI. Mrs. Becker, who just turned 75, attended the dedication of the Memorial to the Women in Service at Arlington National Cemetery on October 18, 1997. Ruth is one of approximately 1.8 million women who have served in the U.S. Armed Forces and we honor her as does the memorial for serving our country proudly.

Mrs. Becker enlisted in the U.S. Navy in 1944 and served as a WAVE, Women's Auxiliary for Volunteer Emergency Service, during World War II. Ruth's responsibilities took her to New York City and Washington, DC where she worked in naval communications for Pacific theater operations until February 1946.

Ruth is a charter member for the women's memorial project which has transformed Arlington National Cemetery's 75-year-old main entrance gate into a shrine honoring the Nation's women veterans. The memorial will house a museum, a 196-seat auditorium, a Hall of Honor, and an education center on military history. Mr. President, Ruth Becker served our country with pride and we honor her, as we also honor all women who have served our country proudly.●

NOMINATION OF DALE KIMBALL

● Mr. HATCH. Mr. President, it is with great pleasure that I endorse the nomination of Dale Kimball, who has been nominated by President Clinton for the position of U.S. district judge for the district of Utah, and I urge my colleagues to do the same. I am acquainted with Mr. Kimball personally and know that he comes before the Senate with an already distinguished record as a lawyer and litigator, an individual demonstrably well qualified for the position of Federal district court judge.

After working as an associate and then as a partner with a leading Utah law firm, Van Cott, Bagley, Cornwell & McCarthy, for 8 years, Dale Kimball became a founding partner, and is now the senior partner, at what has become one of my State's most distinguished firms; Kimball, Parr, Waddoups, Brown & Gee.

During his 30-year career, Mr. Kimball has developed extensive expertise in various areas of civil practice, particularly the litigation in Federal and State court of complex business cases involving such matters as energy, antitrust, securities fraud, insurance, and contracts. As an experienced litigator, Dale Kimball is particularly well-qualified to serve as a trial court judge. The respect Dale Kimball has earned from the Utah legal community is reflected in his selection as Distinguished Lawyer of the Year by the Utah State Bar in 1996.

Dale Kimball's dedication to the practice of law is matched by his dedication to serving his community. He has been a member of the board of the Pioneers Theater Co., Alta View Hospital, the Desert News Publishing Co., the Jordan Education Foundation, and the J. Reuben Clark Law Society.

I am confident that Dale Kimball will be a worthy addition to the Federal district court in Utah, and I am very pleased that the Senate has confirmed his nonination.●

RETIREMENT OF WILLIAM P. CROWELL

● Mr. MOYNIHAN. Mr. President, the National Security Agency has recently lost to retirement its deputy director, William P. Crowell. As David Kahn has recently written in Newsday, Mr. Crowell has taken NSA and ''brought the super-secret spy organization into its public, post-Cold War posture.'' For too long, we have been learning our cold war history from Soviet Archives. Bill Crowell set about to change that at the National Security Agency. He directed the establishment of the National Cryptologic Museum, which I have visited and commend to my colleagues, and helped to make public the hugely important VENONA project.

The VENONA intercepts comprise over 2,000 coded Soviet diplomatic messages between Moscow and its missions in North America. The NSA and its predecessors spent some four decades decoding what should have been an unbreakable Soviet code. Led by Meredith Gardner, these cryptanalysts painstakingly decoded these messages word by word. They would then pass on the decoded messages to the FBI, which conducted extensive investigations to determine the identities of the Soviet agents mentioned in the messages. The resulting VENONA decrypts detail the Soviet espionage effort in the United States during and after the Second World War.

We need access to much more of this type of information. Not only does VENONA allow us to learn our history, but in releasing it to the public, not insignificant gaps in the government's knowledge of this material are being filled. For instance, the identity of one of the major atomic spies at Los Alamos was recently discovered by clever journalists using the published VENONA messages. Joseph Albright and Marcia Kunstel of Cox News and, working independently, Michael Dobbs of The Washington Post, identified the agent codenamed MLAD as Theodore Alvin Hall, a 19-year-old physicist working at Los Alamos. Hall provided crucial details of the design of the atomic bomb which enabled the Soviet Union to develop a replica of the bomb dropped on Nagasaki.

Bill Crowell recognized the historic value of VENONA and played an important role in getting this material released, along with Dr. John M. Deutch, and with the gentle prodding of the Commission on Protecting and Reducing Government Secrecy. Mr. Crowell should receive a medal for his work.

Mr. Crowell retires after a long career of government service. He served as a senior executive of the National Security Agency for 17 years. He was appointed Deputy Director of the agency by the President in 1994. In addition to his work which has already been described, Mr. Crowell has worked in recent years to help craft a responsible Administration policy regarding encryption technology. I ask to have the article by David Kahn in Newsday, which announces his retirement and highlights some of his accomplishments, printed in the RECORD. I salute Mr. Crowell for his dedicated service and wish him well in his future pursuits.

The article follows:

[From Newsday, Oct. 6, 1997]

NATIONAL SECURITY OFFICIAL RETIRES—HELPED REFOCUS AGENCY'S AIMS

(By David Kahn)

The National Security Agency has said goodbye to its retiring deputy director, who largely brought the super-secret spy organization into its public, post-Cold War posture.

William P. Crowell was the force behind the establishment of the National Cryptologic Museum, which exhibits what had been some of the nation's deepest secrets; the revelation of the VENONA project, which broke Soviet spy codes early in the Cold War; and the National Encryption Policy, which seeks to balance personal privacy with national security.

Succeeding Crowell will be Barbara McNamara, who, like Crowell, is a career employee of the agency, which breaks foreign codes and makes American Codes for the United States government.

McNamara is the second female deputy director of the agency. The first, Ann Z. Caracristi, who served from 1980 to 1982, is the sister of the late Newsday photographer Jimmy Caracristi.

More than 500 present and past members of the agency attended Crowell's recent retirement ceremony at its glossy, triple-fenced headquarters at Fort Meade, Md. They applauded as he was presented with awards for his intelligence and executive services and with a folded American flag that had flow over the agency.

They laughed as a picture, claimed to be his retirement portrait, was unveiled: It was a photograph of Crowell, notorious for his love of motorcycles, astride his fancy bike. During his acceptance speech, Crowell choked up when he thanked his wife, Judy, a former agency employee and fellow motorcyclist, for her help.

The agency director, Air Force Lt. Gen. Kenneth Minihan, recited some of the administrative landmarks of Crowell's career.

Crowell, 58, a native of Louisiana, began in New York City in 1962 as an agency recruiter. In 1969, when he sought an assignment to operations, he became instead an executive assistant to the then-director. He eventually got to operations, where he rose to be chief of W group, whose function remains secret, and then chief of A group, which focused on the then-Soviet Union. After a year in private industry, he rose through other posts to the deputy directorship on Feb. 2, 1994.

Among his organizational accomplishments were conceiving a crisis action center and linking the agency with other producers of intelligence to improve information exchange.

His more public initiatives included the museum and the VENONA disclosures, which sought to maintain public support for the agency after the disappearance of the Soviet Union. The National Encryption Policy seeks to enable the agency to read the messages of terrorists and international criminals who use computer-based, unbreakable ciphers while enabling individuals to use good cryptosecurity to preserve such rights as security on the Internet.●

GIVING CHILDREN IN THE NATION'S CAPITAL A CHANCE TO SUCCEED

● Mr. BROWNBACK. Mr. President, last week, a remarkable event took place while Congress was in recess. Two private citizens gave 1,000 low-income children in the District of Columbia a chance.

On Monday, October 13, 1997, Ted Forstmann, the newly elected chairman of the Washington Scholarship Fund, and John Walton, director of Wal-Mart Stores, Inc., each contributed $3 million for students in the District to receive a quality education. The Washington Scholarship Fund currently provides private school scholarships to 460 low-income District students. With the contributions from Mr. Forstmann and Mr. Walton, the Washington Scholarship Fund will be able to provide these needed scholarships to an additional 1,000 low-income students.

Mr. Forstmann made it very clear that this initiative is not a political statement for or against public education in the District. This is simply a commitment to give children a chance to succeed. In describing the prospects of many of the District's children to William Raspberry of the Washington Post, Mr. Forstmann said, ''It's like being born already dead. There are too many children like that, and I just feel we have to do what we can for them.''

In praising this powerful gesture for children, my hope, Mr. President, is that corporate America will follow Mr. Forstmann and Mr. Walton's example. Responsible business investments include investing in human capital and the value-added impact of a quality education. There is no better investment than America's children.●

HONORING RAYMOND W. FANNINGS

● Ms. MOSELEY-BRAUN. Mr. President, it is my pleasure and my privilege to join the family, friends and colleagues of a distinguished citizen of Chicago, IL, Mr. Raymond W. Fannings, in honoring him as he retires from the Chicago Child Care Society. Mr. Fannings served as executive director of the Chicago Child Care Society for the past 18 years.

Raymond Fannings leaves the agency with a rich legacy. He has more than 35 years of faithful and distinguished service in the field of child welfare. His contributions are widely recognized and his many community service awards serve as a testament to his compassion, commitment, talent, and vision. As the first African-American Executive Director of the Chicago Child Care Society, he has built bridges and forged interracial coalitions in behalf of the values held and goals pursued by this renowned social service provider.

Under Mr. Fannings' leadership, the Chicago Child Care Society expanded its mission and became a moving force in the development and provision of family preservation services. Raymond Fannings also recognized the importance of responding to community needs. He dedicated substantial resources to both develop and implement services in many of the economically distressed communities surrounding his agency.

During Mr. Fannings' illustrious career, he served as president of the Child Care Association of Illinois and as a board member of the United Way Crusade of Mercy. He is the current president of both the Child Care Association of Illinois and the Black Executive Directors Coalition. He has served on the Child Advisory Committee, the Governmental Affairs Committee for United Way, and the United Way Board of Directors. He is also a board member of the Free People's Clinic, president of the St. Mark Credit Union, and an active member of St. Mark United Methodist Church in Chicago.

Mr. Raymond Fannings has distinguished himself as one of Chicago's most valuable leaders, and his achievements and dedication are a shining example to us all. His efforts have opened avenues of faith, hope, and opportunity for many children and their families. As my neighbor and friend, I know that retirement will only be the beginning of a new chapter of his advocacy for children and for community. I wish him all the best in his future endeavors.●

TRIBUTE TO DEAN KAMEN FOR HIS CONTRIBUTIONS TO SCIENCE

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Dean Kamen of Manchester, NH. Mr. Kamen was recently inducted into the renowned National Academy of Engineers for his invention and commercialization of biomedical devices and fluid measurement and control systems.

Mr. Kamen is currently the president of DEKA Research and Development Corp. of Manchester, NH. He studied at Worcester Polytechnic Institute, where he earned his degrees in physics and has also received an honorary doctorate of science degree from Worcester Polytechnic Institute as well as Daniel Webster College. Dean has more than 35 U.S. patents attributed to him which range from a volumetric pump with replaceable reservoir assembly to an integral intravenous fluid delivery device.

Dean's innovations and significant contributions to the field of engineering have strengthened the economy of New Hampshire as well as the Nation. Dean is also recognized for using skills and influence to promote scientific inquiry at this critical time in America, a time when more young people are needed in the fields of science. Combining sports and scientific discovery, Dean established the FIRST robotics competition for young people. He is currently working on a science and technology museum project in Manchester, NH, which will be a valuable addition to the town, as well as the scientific community.

Entrance into the National Academy of Engineers is an extremely prestigious honor. In fact, it is among the highest honors with which an engineer can be bestowed. Engineers are nominated and then elected to the academy by the current membership. Becoming a member is a validation of an engineer's great contributions to science by his peers, and many scientists work to achieve this honor throughout their lives. Dean is one of 85 engineers and 8 foreign associates who was inducted into the academy in early October.

Dean's induction into the National Academy of Engineering is only one of the numerous honors he has received. He is a fellow with the American Institute of Medical and Biological Engineering, in addition to being appointed a senior lecturer at the Massachusetts Institute of Technology.

Renowed the world over in various science fields for inventions and advances in engineering, Dean has established a tradition of greatness with his work. In 1995 he was awarded the Hoover Medal for ''innovation that has advanced medical care worldwide, and for innovative and imaginative leadership in awakening America to the excitement of technology and its surpassing importance in bettering the lot of mankind.'' Dean has also received the International John W. Hyatt Service to Mankind Award for service to humankind through the use of plastics.

I have known Dean for over a decade, and I am very proud of the important advances he has made in engineering. He has increased the quality of lives through his engineering feats not just in New Hampshire, but also the United States and the world. He represents the very best in science today: a man of great expertise, capability, and integrity. The Granite State is fortunate to have Dean working in our State. His innovations in engineering are priceless. Both Dean, as well as the other members of the National Academy of Engineering, are national treasures. I congratulate Dean Kamen on this distinguished honor; it could not have been bestowed on a more deserving individual.●

THE 1997 WALTER B. JONES MEMORIAL AND NOAA EXCELLENCE AWARDS FOR COASTAL AND OCEAN RESOURCE MANAGEMENT

● Mrs. MURRAY. Mr. President, this morning the National Oceanic and Atmospheric Administration [NOAA] presented the 1997 Walter B. Jones Memorial and NOAA Excellence Awards for Coastal and Ocean Resource Management. A number of distinguished citizens, students, and public servants were honored for their commitment to the protection, conservation, and sustainable use of our Nation's precious coastal resources. I would like to offer my praise and admiration to all of the award recipients for their hard work and dedication to this critical area of ecological and economic concern.

Over one-half of the U.S. population resides within 50 miles of the coast. All of these people and the associated development and other activities that accompany them place extraordinary pressure on the ecosystems, watersheds, and communities on our coasts. Coastal areas provide incredible commercial, recreational, and aesthetic benefits to the American people. The Walter B. Jones and NOAA awards recognize individuals who have taken on the challenge of protecting these coastal areas and ensuring these benefits are not lost.

While I congratulate all of the award recipients, I would like to acknowledge two Washington State recipients in particular. Recipients of the Excellence in Coastal and Marine Graduate Study Award, Lillian Ferguson and John Field, from the University of Washington School of Marine Affairs. I am honored to have these two bright graduate students represent Washington State and our commitment to the protection of coastal areas.

Lillian Ferguson's works focuses on management of maritime transportation and marine protected areas. As a summer intern (1996) for the Olympic Coast National Marine Sanctuary [OCNMS] she developed a program for documentation and analysis of vessel traffic in the congested entrance and approaches to the Strait of Juan de Fuca. Her work formed the basis for recent implementation of the program by the OCNMS this year. This prototype program may be suitable for adoption in many similar situations in the United States and abroad. During the academic year 1996–97, Lillian is the Project Assistant for the Safe Marine Transportation Forum [SMART Forum]. In this capacity she promotes dialogue among more than 20 stakeholder interests on marine safety and transportation on Puget Sound. Lillian has also contributed as a research assistant to the National Coastal Zone Management Effectiveness Study recently completed for OCRM/NOAA. Her thesis work analyzes the development of interjurisditional collaboration in managing marine environments between the NMS Program and the U.S. National Park Service. Lillian has made significant contributions with the work she has already completed. Her thesis should be quite informative and valuable in improving interjurisdictional cooperation between the NMS Program and other Federal and State entities.

John Field's work focuses on the initial impacts of regional climate change. For approximately 2 years John has been a Research Assistant in the Integrated Regional Assessment Program for the Pacific Northwest sponsored by NOAA through the Joint Institute for Study of the Atmosphere and Ocean [JISAO, Principal Investigator Ed Miles]. His role and responsibilities have been especially difficult to perform given the scant attention to systematic monitoring of coastal impacts. John has done a superb job of combining disparate data sets, anecdotal information, and informed experience to document key issues and trends relevant to projected Global Climate Change scenarios. His efforts form the stage on which interdisciplinary team-based integration can take place. John coauthored with Marc Hershman a report on this work and is currently completing his thesis documenting and expanding somewhat on the findings. This research should assist the development of coastal impact scenarios under regional climate change assessments elsewhere. Besides this work John has been the coordinator for a very successful joint seminar between the School of Marine Affairs and the fishing industry. In addition, John has been working during the summer on a seabed coring project led by Prof. Robert Francis to obtain Paleo-records of fish and shellfish abundance in the North Pacific.

Both of these award recipients have worked hard for the sake of our coastal resources in Washington State. As they move on from graduate work and enter the work force either in public service, nongovernmental organizations, or private industry, I know they will continue in their commitment to the protection, conservation, and sustainable use of our coastal resources. With students such as Lillian and John in our graduate schools, I am confident about the future of our coastal areas as the challenges confronting these areas and those of us who care about them become increasingly complex. And to Lillian and John, congratulations.●

THE WOMEN'S RESOURCE CENTER

● Mr. FRIST. Mr. President, Friday, October 24, in my hometown of Nashville, TN, the National Association of Women Business Owners/Nashville Chapter and the Nashville Foundation for Women Business Owners will recognize the establishment of an exciting and worthwhile project—The Women's Resource Center.

The first in Tennessee, the Women's Resource Center is designed to further enhance business opportunities for women, by providing technical assistance, training, and education. I am proud that Nashville is currently among the 10 fastest growing metropolitan areas for women-owned businesses, and this center will ensure continued economic growth and increase participation from women interested in founding and growing their own businesses.

Like most visionary ideas, this one would not have happened without community support, and women who clearly saw the need for the center and rose to the occasion to make their dream come true. My congratulations go to all of the Nashville members of the Foundation for Women Business Owners and the National Association of Women Business Owners, and especially to local entrepreneurs who as ''founding mothers'' provided the initial capital to match funds from the Small Business Administration.

When Alexis de Toqueville traveled this young Nation, he wrote, ''If I were asked to what the singular prosperity and growing strength of the American people ought mainly to be attributed, I should reply—to the superiority of their women.'' His words still ring true today, and the realization of the Women's Resource Center is further testimony to the superiority and the achievements of these outstanding women business owners in Nashville, TN. I am honored to serve as their U.S. Senator.●

THE SALE OF THE FEDERAL BUILDING IN BAKERSFIELD, CA

● Mr. MCCAIN. Mr. President, during Senate consideration of the Fiscal Year 1998 Treasury Postal Appropriations bill, I submitted for the RECORD a list of projects which I found to be low-priority, unnecessary or wasteful spending, that circumvented the normal, merit-based prioritization process. On October 15, 1997, I forwarded this list to President Clinton and recommended he use his line-item veto authority to eliminate these projects. Included in this list was language contained in the Conference Report which directed that the Bakersfield Federal Building in California be sold.

It has been brought to my attention that this Federal building went through the proper screening process by GSA in order to ascertain if it was needed for any further Federal use. No Federal Government agency expressed an interest in utilizing this property.

Furthermore, I am informed that the sale of this property, through a process of competitive bidding, will result in a profit to the American taxpayer. The Conference Committee directed the sale of this building only after the GSA screening was completed and it was determined that this was in fact surplus Federal property.

Therefore, Mr. President, I applaud the actions of the Committee and Rep. BILL THOMAS of California, and withdraw my objection to the sale of this property as well as my recommendation that the President veto this provision.●

AUTHORIZING USE OF THE ROTUNDA OF THE CAPITOL

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 56, submitted earlier today by Senator SPECTER.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 56) authorizing the use of the rotunda of the Capitol for a ceremony honoring Leslie Townes (Bob) Hope by conferring upon him the status of an honorary veteran of the Armed Forces of the United States.

The Senate proceeded to consider the concurrent resolution.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The concurrent resolution (S. Con. Res. 56) was agreed to, as follows:

S. CON. RES. 56

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the Capitol is authorized to be used on October 29, 1997, for a ceremony to honor Leslie Townes (Bob) Hope by conferring upon him the status of an honorary veteran of the Armed Forces of the United States. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

MEASURES JOINTLY REFERRED—S. 613 AND H.R. 1953

Mr. CHAFEE. Mr. President, I ask unanimous consent that S. 613 and H.R. 1953 be considered jointly referred to the Finance Committee and the Governmental Affairs Committee.

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

MEASURE DISCHARGED AND REFERRED—S. 1268

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of S. 1268 and the bill be referred to the Environment and Public Works Committee.

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

EXECUTIVE SESSION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate proceed to executive session and that the Indian Affairs Committee be immediately discharged from further consideration of the following nominations, and further that the Senate then proceed to their consideration:

Michael Naranjo, Jeanne Givens, Barbara Blum, Letitia Chambers.

I further ask unanimous consent that the nominations be confirmed; that the motions to reconsider be laid upon the table; that any statements relating to the nominations appear at the appropriate place in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

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

The nominations considered and confirmed are as follows:

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

Michael A. Naranjo, of New Mexico, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2002.

Jeanne Givens, of Idaho, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring October 18, 2002.

Barbara Blum, of the District of Columbia, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2002.

Letitia Chambers, of Oklahoma, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2000.

LEGISLATIVE SESSION

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

ORDERS FOR THURSDAY, OCTOBER 23, 1997

Mr. CHAFEE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 a.m. on Thursday, October 23. I further ask that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately proceed to a period of morning business until 11 a.m., with Senators permitted to speak for up to 5 minutes each, with the exception of Senators FAIRCLOTH and FORD, 30 minutes; Senators CRAIG and HAGEL, 35 minutes; Senator FEINSTEIN, 15 minutes; Senator SHELBY, 10 minutes; Senator TORRICELLI, 15 minutes; Senators KEMPTHORNE and ROBB, 20 minutes.

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

Mr. CHAFEE. Mr. President, I ask unanimous consent that the cloture vote occur on the modified amendment to S. 1173 at the hour of 11 a.m. on Thursday. I further ask unanimous consent that immediately following the cloture vote, the Senate proceed to a vote on passage of the continuing resolution, H. J. Res. 97, regardless of the outcome of the first cloture vote.

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

PROGRAM

Mr. CHAFEE. Mr. President, tomorrow morning following the period of morning business the Senate will conduct two consecutive rollcall votes beginning at 11 a.m. The first vote will be on cloture on the committee amendment to the ISTEA legislation, to be followed by a vote on passage of the continuing resolution.

If cloture is not invoked at 11 a.m. on Thursday, it is hoped that the second cloture vote will occur Thursday afternoon. Therefore, Members can anticipate rollcall votes throughout Thursday's session of the Senate.

It is the leader's hope that the Senate can make progress on the highway legislation—it is my hope, too, I might add—during tomorrow's session. In addition, if any appropriations conference reports become available, it would be expected that the Senate consider those reports in short order.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. CHAFEE. Mr. President, if there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order.

Thereupon, the Senate, at 7:13 p.m., adjourned until Thursday, October 23, 1997, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 22, 1997:

DEPARTMENT OF DEFENSE

DARYL L. JONES, OF FLORIDA, TO BE SECRETARY OF THE AIR FORCE, VICE SHEILA WIDNALL, RESIGNED.

DEPARTMENT OF LABOR

RICHARD M. MCGAHEY, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE ANNE H. LEWIS.

DEPARTMENT OF STATE

WILLIAM DALE MONTGOMERY, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CROATIA.

DEPARTMENT OF DEFENSE

WILLIAM J. LYNN III, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY OF DEFENSE (COMPTROLLER), VICE JOHN HAMRE.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. MICHAEL L. BOWMAN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. VERNON E. CLARK, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate October 22, 1997:

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

MICHAEL A. NARANJO, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2002.

JEANNE GIVENS, OF IDAHO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING OCTOBER 18, 2002.

BARBARA BLUM, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2002.

LETITIA CHAMBERS, OF OKLAHOMA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2000.