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Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Dear God, righteous, holy Judge of us all, we are accountable to You. Every word we speak and action we take is heard and seen by You. Remind us that You bless those who humble themselves and put their trust in You completely. There's no limit to what You will do for a country and its leaders if You are glorified as Sovereign.

May the knowledge of Your blessings to our Nation bring a deeper commitment to You. We want our motto, ''In God we trust'' to be more than an egregious exaggeration. Begin a spiritual awakening in us that will spread throughout our Nation. You have told us, ''Where there is no vision the people perish . . . ''—Proverbs 29:18. And we remember Thomas Jefferson's warning, ''God who gave us life, gave us liberty. Can the liberties of a nation be secure when we have removed a conviction that these liberties are the gifts of God?'' With these words ringing in our souls, grant the Senators and all of us who work with them the courage to reaffirm You as Lord to whom we are responsible for the moral, spiritual, and cultural life of America. In the name of our Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. COVERDELL. Mr. President, on behalf of the majority leader, I announce that this morning the Senate will be in a period of morning business until 11 a.m. At 11 a.m., the Senate will resume consideration of S. 1173, the ISTEA legislation. By previous agreement, from 12:30 p.m. to 2:15 p.m. the Senate will recess for the weekly policy luncheons to meet.

It is hoped that at 2:30 p.m. the commerce amendment will be offered. Therefore, Members can anticipate debate on that amendment this afternoon. In addition, the Senate may consider any executive or legislative business cleared for action. As always, Members will be notified when rollcall votes are scheduled.

I thank my colleagues for their attention.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. BROWNBACK). There will now be a period for the transaction of morning business.

The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, I thank the Chair.

(The remarks of Senator COVERDELL and Senator FEINSTEIN pertaining to the submitted S.J. Res. 42 and S.J. Res. 43 are located in today's RECORD under ''Submission of Concurrent and Joint Resolutions.'')

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin. Under a previous order, the Senator from Wisconsin is recognized for up to 15 minutes.

Mr. FEINGOLD. I thank the Chair.

(The remarks of Mr. FEINGOLD pertaining to the submission of legislation are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, are we in morning business for 10 more minutes?

The PRESIDING OFFICER. We are in morning business until 11 o'clock.

Mr. WELLSTONE. I ask unanimous consent that I be able to speak for 10 minutes in morning business.

The PRESIDING OFFICER. The Senator has that right under the previous order.

Mr. WELLSTONE. I am sorry?

The PRESIDING OFFICER. The Senator has that right under the previous order.

Mr. WELLSTONE. I didn't know whether other people were in order to speak and I was bumping someone out.

The PRESIDING OFFICER. The Senator from Minnesota has been recognized to speak for up to 10 minutes.

HUMAN RIGHTS IN CHINA

Mr. WELLSTONE. Mr. President, I will be on the floor at 11 o'clock with an amendment to the ISTEA legislation, but let me pick up on comments I made yesterday on the floor of the Senate about a resolution that Senator MACK from Florida and I have submitted dealing with the whole question of human rights in China.

There is an editorial today in the Washington Post—and I think it is a very important editorial—called ''A Choice on China.'' I ask unanimous consent to have that printed in the RECORD.

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

A CHOICE ON CHINA

The Clinton administration long ago abandoned human rights as a primary consideration in dealing with China, but it claimed an intention at least to continue speaking out on the issue. The substance of U.S.-China relations—in other words, trade, military contacts, high-level summits—would go forward no matter what abuses China's leaders committed against their own people, but the United States would, in Secretary of State Madeleine Albright's famous phrase, ''tell it like it is'' nonetheless. Now, however, it

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

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seems the administration may sacrifice even truth-telling so as not to offend China's Communist regime.

The immediate issue is whether to sponsor a resolution at the United Nations Commission on Human Rights when it convenes in Geneva next month. You wouldn't think this would be a tough call. Such a resolution would moderately criticize China's record and call for improvements; it would impose no penalty beyond well-deserved embarrassment. Democracy advocate Wei Jingsheng nevertheless calls the resolution ''a matter of life and death'' for reform in China. President Clinton explicitly promised, back when he delinked trade and human rights in 1994, that the administration ''would step up its efforts'' to get such a resolution approved. China's regime remains as oppressive today as it was then.

That much is clear, in fact, from the State Department's own human rights report, which—despite a touch of whitewash this year—does mostly tell it like it is, painting a dismal picture of China's ''widespread and well-documented human rights abuses.'' These include torture, extrajudicial killings, arbitrary arrest and detention, forced abortion and sterilization, crackdowns on independent Catholic and Protestant bishops and believers, brutal oppression of ethnic minorities and religion in Tibet and Xinjiang and, of course, absolute intolerance of free political speech or free press. Just this month, the FBI arrested two Chinese citizens for allegedly marketing human organs harvested from some of the 6,000 prisoners China executes each year. If prisoners are being killed in order to provide organs, it ''would be among the grossest violations of human rights imaginable,'' Stanley O. Roth, assistant secretary of state for East Asian affairs, said last summer.

Yet from Mr. Clinton, still no word on plans for Geneva. Last year the administration similarly dithered and delayed, eventually hiding behind tiny Denmark, which sponsored a resolution. China responded, with grace matching America's courage, by warning that the human rights resolution would ''become a rock that smashes on the Danish government's head.'' This year, while the administration again has been unable to make up its mind, the entire European Union opted out, cravenly vowing not to cosponsor any resolution. The EU then cited a series of inadequate ''benchmarks'' to measure future Chinese progress in the human rights field, such as that the visit of the U.N. human rights commissioner to China ''should be taken seriously by the Chinese leadership.''

It may be too late now for the United States to rally a coalition of countries that would guarantee a fair hearing for a resolution on China, but it is not too late for Mr. Clinton to support such a measure nonetheless. He can still send a message that America supports, or at least sympathizes with, the fighters for freedom inside China; alternatively, he can send a message that his friendship with their oppressors is too important to put at risk with any impolite words. For someone who hopes to become this year the first president to visit China since the massacre at Tiananmen Square, this should be an easy choice.

Mr. WELLSTONE. Mr. President, the immediate issue, as the Post editorial points out, is whether or not the United States is going to sponsor a resolution at the U.N. Commission on Human Rights gathering in Geneva, which is going to be coming up, I think, this month, or maybe at the beginning of next month, but within a very short period of time.

I had a chance to meet with Wei Jingsheng who wrote a wonderful book called ''The Courage to Stand Alone.'' He spent many years in prison in China, I think 16 years, for his courage to speak out. He has made it very clear, and I quote the Post editorial, that the resolution is '' 'a matter of life and death' for reform in China. President Clinton explicitly promised, back when he delinked trade and human rights in 1994, that the administration 'would step up its efforts' to get such a resolution approved.''

Mr. President, China remains as oppressive today as it was a few short years ago. I want colleagues to know that this is a separate question from whether or not you were in favor of most-favored-nation status for China. Some people believe trade policy is too blunt an instrument to be focused on human rights. Others do not. I do not share that sentiment. Regardless, let me repeat for colleagues what we know.

The State Department's own human rights report, which has been somewhat controversial because some think it is a bit of a whitewash this year, still nevertheless paints a dismal picture of China's ''widespread and well-documented human rights abuses'':

These include torture, extrajudicial killings, arbitrary arrest and detention, forced abortion and sterilization, crackdowns on independent Catholic and Protestant bishops and believers, brutal oppression of ethnic minorities and religions in [countries like] Tibet . . .

And the list goes on.

Just this month, the FBI arrested two Chinese citizens for allegedly marketing human organs harvested from some of the 6,000 prisoners China executes each year. If prisoners are being killed in order to provide organs, it ''would be among the grossest violations of human rights imaginable,'' Stanley O. Roth, Assistant Secretary of State for East Asian Affairs, said last summer.

We haven't yet heard from the White House as to whether or not they are going to be sponsoring a resolution which would raise all of these questions. I think this is a commitment we have made as a country.

Let me conclude by reading the last paragraph of this Post editorial:

It may be too late now for the United States to rally a coalition of countries that would guarantee a fair hearing for a resolution on China, but it is not too late for Mr. Clinton to support such a measure nevertheless. He can still send a message that America supports, or at least sympathizes with, the fighters for freedom inside China; alternatively, he can send a message that his friendship with their oppressors is too important to put at risk with any impolite words. For someone who hopes to become this year the first president to visit China since the massacre at Tiananmen Square, this should be an easy choice.

The resolution that Senator MACK and I submitted yesterday calls on the President to move forward with this resolution at the U.N. Commission on Human Rights, which is going to be meeting in Geneva. My understanding was that we were going to mark up this resolution in the Senate Foreign Relations Committee today, but one Senator on the committee has basically blocked that and has exercised his prerogative so we won't be able to mark it up in committee.

I want to make it clear to colleagues that I have every intention—and I hope I will be joined by other Senators—of bringing this resolution to the floor as an amendment on a bill, probably the ISTEA bill. I will wait and see and work, of course, very closely with my colleague Senator MACK.

It is extremely important that the U.S. Senate go on record supporting a resolution passed by this U.N. Commission on Human Rights at its meeting in Geneva. Sometimes I get the feeling that when I speak on the floor of the Senate—in a few minutes we will have a debate, there will be more people here—but when I am on the floor of the Senate and speaking about something like this, I sometimes get the feeling it is unimportant. It is not unimportant. When Wei Jingsheng who spent all those years in prison, when Harry Wu, and others, who have given up years of their life because of their courage to speak up for just basic human rights, call on us in the U.S. Senate, ''Won't you please at least adopt a resolution''—I guess it is going to have to be an amendment now—''which really calls on the President and your country to take leadership at this U.N. Commission on Human Rights and have some criticism of what has been going on in China, the torture of people, the execution of people, the imprisonment of people just for speaking up, the persecution of religious groups, won't you at least do that,'' I am telling you, when I get a request from someone like Wei Jingsheng, who I think is a giant, then I am certainly going to follow through on it.

I believe that in the U.S. Senate there will be overwhelming support for this resolution, which I think now will be an amendment since we have been blocked from being able to mark it up in the Senate Foreign Relations Committee.

I guess I will say to colleagues, if you don't agree that our country at the very least ought to be speaking up on these human rights questions and supporting people like Wei Jingsheng, that that is at least the minimum we can do at this very important U.N. Commission on Human Rights, then you can come to the floor of the Senate and you can debate it.

From my own point of view, one Senator, who happens to be my colleague from Minnesota who doesn't agree and is not going to let this go forward on the Senate Foreign Relations Committee, I would be pleased to debate him and other Senators as well. But my hope is that we will have overwhelming support for this.

Again, this doesn't say you are for or against most-favored-nation status. This doesn't say you are for or against assistance for IMF or not. This is not

about GATT. This is not about NAFTA. This is about something else which we ought to have a consensus on, which is, at this upcoming meeting in Geneva—I think our Government has given people in China every reason to believe that we would—and I guess I will quote Secretary of State Madeleine Albright's famous phrase, ''Tell it like it is.'' We ought to tell it like it is. We ought to tell it like it is. The Post editorial is right on the mark, we ought to do it at this very important meeting of the U.N. Commission on Human Rights. That is the time for the United States to speak out.

Silence is betrayal, and our country must not be silent in the face of these kinds of abuses of elementary human rights of citizens in China and, for that matter, in other countries as well.

I hope that I will be doing this on the floor with Senator MACK. I certainly am going to be bringing an amendment to the floor. We have to have a vote on this. I can't let one Senator block a committee from marking up this bill and then have it delayed a month, which will be too late for this U.N. Commission on Human Rights. We will take action on it before the Senate. I hope we get 98, 99 Senators voting in favor of it. It is the least we can do.

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

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

NATIONAL SPORTSMANSHIP DAY

Mr. CHAFEE. Mr. President, today is the eighth annual National Sportsmanship Day—a day designated to promote ethics, integrity, and character in athletics. I am pleased to say that National Sportsmanship Day was a creation of Mr. Daniel E. Doyle, Jr., Executive Director of the Institute for International Sport at the University of Rhode Island. Participation this year will include over 10,000 schools in all 50 states and more than 100 countries.

Today, the Institute is holding a daylong town meeting in which athletes, coaches, journalists, students, and educators are engaged in an in-depth discussion of racial issues in sports. I believe that the Institute's work in addressing the issues of character and sportsmanship, and its ability to foster good dialogue among our young people is significant.

As part of the Day's celebration, the Institute selects Sports Ethics Fellows who have demonstrated ''highly ethical behavior in athletics and society.'' Past recipients have included: Kirby Puckett, former Minnesota Twins outfielder and 10-time All Star; Joan Benoit Samuelson, gold medalist in the first women's Olympic marathon in 1984; and Joe Paterno, longtime head football coach at Penn State University. This year, the Institute will honor over 15 individuals including Mills Lane, district court judge of Reno, Nevada and internationally known professional boxing referee; Bud Greenspan, renowned Olympic cinematographer; Billy Packer, CBS sports commentator; and Ken Dryden, president and general manager, Toronto Maple Leafs.

Another key component of National Sportsmanship Day is the Student-Athlete Outreach Program. This program encourages high schools and colleges to send talented student-athletes to local elementary and middle schools to promote good sportsmanship and serve as positive role models. These students help young people build self-esteem, respect for physical fitness, and an appreciation for the value of teamwork.

If all those activities were not enough, the Institute has found another avenue to promote understanding and good character for youngsters. A new program called Renaissance Education was instituted in 1996 to expose students to the foundations of ''total education.'' The Renaissance Education concept gives students the opportunity to contribute to a team effort and profit from the benefits of team participation. To kick-off this program, the Institute will host its first-ever Renaissance Games in April where students will participate in sports, leisure, cultural, and academic activities such as: basketball, volleyball, photography, public speaking, creative writing, chess, board games, spelling bees, and library research.

I remain very proud that National Sportsmanship Day was initiated in Rhode Island, and I applaud the students and teachers who are participating in the events of this inspiring day. Likewise, I congratulate all of those at the University of Rhode Island's Institute for International Sport, whose hard work and dedication over the last eight years have made this program so successful.

Mr. President, it is my understanding that S. 1173 will be the matter before the Senate?

The PRESIDING OFFICER. The Senator is correct.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1173, which 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 with a modified committee amendment in the nature of a substitute (Amendment No. 1676).

Mr. CHAFEE. It is my understanding the distinguished Senator from Minnesota has an amendment which he wishes to present. What we would like to do, if it is agreeable with him, is he could present his amendment and discuss it but we not proceed to a vote until we have had an opportunity to check with the Labor Committee, and check some other factors. So he and I could work together on when would be a good time to call it up for a vote.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I have talked to the distinguished Senator from Rhode Island. I will send an amendment to the desk, but I will not be asking for a vote until after we work together on this. I certainly hope there will be support for it. I thank the Senator from Rhode Island for his graciousness.

AMENDMENT NO. 1679 TO AMENDMENT NO. 1676

(Purpose: To require the Secretary of Health and Human Services to report on the number of former recipients of public assistance under the State temporary assistance to needy families programs that are economically self-sufficient)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 1679.

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

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

The amendment is as follows:

On page 309, between lines 3 and 4, insert the following:

SEC. 18___. REPORT ON THE STATUS OF FORMER TANF RECIPIENTS.

Section 413 of the Social Security Act (42 U.S.C. 613) is amended by adding at the end the following:

''(k) REPORT ON THE STATUS OF FORMER TANF RECIPIENTS.—

''(1) DEVELOPMENT OF PLAN.—The Secretary shall develop a plan to assess, to the extent possible based on all available information, the number and percentage of former recipients of assistance under the State programs funded under this part that are, as of the date that the assessment is performed, economically self-sufficient. In determining economic self-sufficiency, the Secretary shall consider—

''(A) the number and percentage of such recipients that are, as of the date of the assessment, employed;

''(B) the number and percentage of such recipients earning incomes at or above 150 percent of the poverty line (as defined in section 673(2) of the Community Services Block

Grant Act (42 U.S.C. 9902(2)), including any revision required by such section for a family of the size involved); and

''(C) the number and percentage of such recipients that have access to housing, transportation, and child care.

''(2) REPORTS TO CONGRESS.—Beginning 4 months after the date of enactment of this subsection, the Secretary shall submit biannual reports to the appropriate committees of Congress on the assessment conducted under this subsection. The reports shall analyze the ability of former recipients of assistance under the State programs funded under this part to achieve economic self-sufficiency. The Secretary shall include in the reports all available information about the economic self-sufficiency of such recipients, including data from quarterly State reports submitted to the Department of Health and Human Services (in this paragraph referred to as the 'Department'), data from State applications submitted to the Department for bonuses, and to the extent the Secretary determines they are relevant to the assessment—

''(A) reports prepared by the Comptroller General of the United States;

''(B) samples prepared by the Bureau of the Census;

''(C) surveys funded by the Department;

''(D) studies conducted by the Department;

''(E) studies conducted by States;

''(F) surveys conducted by non-governmental entities;

''(G) administrative data from other Federal agencies; and

''(H) information and materials available from any other appropriate source.''.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that privilege of the floor be given to Mikki Holmes, who is an intern with me, during consideration of this amendment.

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

Mr. WELLSTONE. Both she and Kelly Ross have helped me a great deal on the amendment, so I would love for her to be able to be out on the floor, and I thank the Chair.

The PRESIDING OFFICER. The Senator is recognized.

Mr. WELLSTONE. Mr. President, let me give my colleagues a bit of background on this amendment—some context. I am, if you will, changing the conversation. We are going to be getting into ISTEA amendments soon, and I will have some other amendments on ISTEA. But this is a vehicle out here on the floor and this is a time for me to raise another question, which I think is a very important one. This amendment would require the Secretary of Health and Human Services to report on the number of former welfare recipients, recipients of public assistance under the State Temporary Assistance to Needy Families programs, who are economically self-sufficient. In other words, what we want to do is have some clear understanding about what is going on in the country right now.

When we debated the welfare bill, I had an amendment which said something like: Let's please get Health and Human Services to take a look at what is going on in the country. And if it should be the case—and I certainly hope it will not be the case—that, as opposed to families being moved from welfare to work with more economic self-sufficiency, which is what our goal is, we are seeing families that are actually becoming more impoverished, children becoming more impoverished, then what we need to do is take corrective action. Let's at least monitor what is happening. That amendment was defeated.

What I am saying to colleagues today is that by passing that piece of legislation, we have a certain responsibility to make sure that we know what is going on throughout the country. Gunnar Myrdal, a Swedish sociologist, once said that ignorance is never random. I think we have to be very careful that we at least make an effort, as responsible policymakers, to understand what is happening.

What I mean by ''economic self-sufficiency'' is we just need to know whether or not, as the rolls drop—and we have heard reports about how the welfare rolls have dropped by 4 million—whether this reduction in the rolls or reduction in welfare caseload is a reduction of poverty. It can't be viewed as reform unless we are talking about a reduction of poverty. We just need to know whether or not these parents, mainly women, are now working at jobs that provide them a decent wage. The operational indicator that I have in this amendment is we need to know whether or not these families are at 150 percent of poverty. Are they now out of poverty? We need to know whether or not there is child care available for the children. We need to know what the housing situation is. We need to know whether or not there is transportation available for people so they can get to jobs. We just do not know that.

What I am saying in this amendment is, at the very minimum—and I hope there will be support for it—we ask the Secretary of Health and Human Services, based upon the data that she has—some reports from States, some Census Bureau survey statistics, some agency data—to pull together all the available data—someone has to do that—and provide to the Senate, to the Congress, a report 4 months from enactment of this amendment, and then every 6 months, as to what is going on in the country—whether or not these families are reaching economic self-sufficiency.

Let me talk a little bit about some of my own travel, and why I bring this amendment to the floor, and also just let me draw from some documentation, empirical data, that I think will help colleagues as they make up their minds. This is very reasonable. This is very reasonable, Democrats and Republicans. The only thing I am saying is, please let us know.

Now, when I travel around the country—and I have spent some time in low-income communities—I am not just focused on welfare. Personally, I think the most important policy goal for us is to make work pay. I think if people work almost 52 weeks a year and almost 40 hours a week, they ought not be poor in America.

I think some of that is skills development for people who are looking for work. Some of that is access to capital, especially for small businesses, whether it be in Kansas or Minnesota, so we can have more entrepreneurs and have more economic opportunities. And some of that is affordable child care and affordable health care. If you can put that package together, that is probably the best single thing you can do for families in America, especially families, if you will, in the bottom 50 percent of the population.

I hope that is the direction we will go. But as I travel the country—from Delta, MS, to East LA, Watts, to the Pilsin neighborhood in South Side Chicago, to public housing projects, the Ida Wells housing project, to the Robert Taylor Holmes housing project, to inner city Baltimore, to inner city Minneapolis, to rural Aitkin County, to Letcher County, Appalachia, eastern Kentucky—what I find is a bit of a disturbing picture. And I have been trying to check with people in other States.

I am finding another thing. First of all, what I do when I travel around the country is say, OK, now you have seen a drop in caseload and you have fewer people on welfare. That is being applauded. But can you tell me where they are? Where are the people? What kinds of jobs do they have? At what wages? How about the children? Is there decent child care for the children?

Generally speaking, the answer—and it will not just be what I am going to tell you on the basis of my own travel, but I also want to quote from some reports—is people do not know. People do not know. State by State they do not really know. There ought to be some way to assemble that data and at least get a report on what has happened.

I can tell you, I talked a little bit about this on the floor of the Senate before. This is why I bring this amendment to the floor. It is why I am changing the conversation on the floor of the Senate at least at the beginning of this bill. It is why I think this is a matter of urgent importance.

What I find is that I will go to a community, like in Delta, MS, or, for that matter—let us start with rural Aitkin County, MN, or, for that matter, maybe even more importantly, in Whitesburg, KY, and people will say in rural communities two things. No. 1—and in a lot of inner cities; I hope every colleague at some point in time can read William Julius Wilson's book, ''The Disappearance of Work,'' just an eminent sociologist, African American sociologist, who has done superb work; rave reviews for his very careful research.

There are a lot of communities in our country where work still does not exist, even with a record low official unemployment rate. We have communities in our country where there are no jobs.

So there are two issues here. If you are going to tell people they are going to be off assistance, we have to make sure the job opportunities are there.

Now, a lot of people in rural America are saying, ''Look, in our communities we don't have the jobs. And just as importantly, we don't have the transportation to be able to get to some of those jobs that are 50 or 60 miles away.'' So I think we need to know what is happening. I mean, in Whitesburg, KY, in Letcher County, KY, boy, I will tell you what—I say this to the Senator from Kansas—you want to talk about a group of people that are independent, you want to talk about a group of people that are self-reliant and self-sufficient—I am a little biased. That is where my wife's family is from. This is the community.

People say, ''We want to be able to work. And if you give us the tools whereby we can have some access to capital, we can chart our own economic future.'' And there are jobs for people. We are all for this. But right now, in a couple of years from now, everybody please remember in that bill that we passed, there is a drop dead date certain where, depending upon the State, 2 years from now or 4 years from now or a year and a half from now everybody is going to be off assistance. All these parents—women; almost all women—and children will be cut off all assistance.

Before that finally happens, Mr. President, we need to know whether or not these families are now reaching economic self-sufficiency. We need to know what is going on. We cannot just cut all people off assistance without knowing whether or not there are jobs available, whether or not any will be available, or, worse—and I am visiting a lot of communities around the country, and I think Senators are probably hearing this now as we implement this legislation—they are telling me there are no jobs.

Same thing in a lot of inner cities I visit where people tell me in Baltimore. And you know what? I am in complete agreement on this. I want my conservative colleagues to know that I am now changing my ideology. I am becoming a conservative Democrat. I cannot go quite as far as being a Republican. But I am in complete agreement with the proposition that you can have all of the social services imaginable, you can have the WIC program, and you can have the Head Start Program, and you can have outreach programs, but it does not work unless people have an employment opportunity. That is dignity for people.

But you know, when I visit some just great people in Baltimore—they are doing great work—what they tell me is, ''Look, all the social services in the world don't cut it unless there are job opportunities here. And the jobs are not available in our ghettos and boroughs. They are available in some of the suburbs, but people cannot get out to them. A lot of poor people do not own cars. And a lot of people rely on the public transportation.''

So what I am saying, colleagues, is, let us find out—find out—whether or not people are moving to economic self-sufficiency. Let us find out what this reduction in caseload means. Because I think otherwise we could be doing something here in Washington, DC, that could be unbelievably harsh and unbelievably cruel and just really unconscionable, which is eventually supporting the idea that all families are cut off all assistance even when people have tried to find a job and have not been able to find a job, even when the child care isn't available.

Now, as I travel the country—I wanted to also mention this to colleagues—I have met with entirely too many families who tell me that either their 3- or 4-year-olds, part of the time, are home alone because it is a single parent working because the child care isn't available, or their children, small children, age 2, age 3, one week are with a cousin, another week with another relative, another week with a friend somewhere, because there is no affordable child care.

Or I talk to parents—and I would like for every Senator to put himself or herself in the place of some of these parents—who tell me that before this legislation passed, they would go to school, and they would pick up their first grader—this happened to me in East LA—and this mother, who was just weeping, she was saying, ''I work.'' She wanted me to know she was working. She wanted me to know that she wants to work. I was asking her, how was it going? And it was at that point that she broke down crying, when she said, ''It's fine until about 3 o'clock every day,'' because that is when she would pick up her first grader—now a second grader—at school, and walk her home, sometimes passing gangs in a pretty violent neighborhood. Too much violence still. And she would walk her child home, and then she would be with her child. Now she tells her second grader, ''You know, when you get home at the housing project, you're to lock the door, and you're to take no phone calls.''

Colleagues, I want you to know that even when there is good weather, there are too many children in America who are not outside playing because there is no supervision for them. Now, we ought to know what is happening around the country to these children. Just because these children are low-income children, just because their mothers are low-income mothers does not make them any less important than anybody else. They are all God's children.

Mr. President, let me just read from a very important article that came out last week in the National Journal by Burt Solomon called ''Monitoring Welfare Reform—Sort Of.'' This is why I want to see us at least call on the Secretary of Health and Human Services to assemble some data, to provide us with reports as to what is going on. That is all. How many families are reaching economic self-sufficiency? Are people who are now off welfare, have they found jobs? At what wage level? Are the children OK? Is there decent child care? That is all that says. We all ought to want to know that. There should not be one vote against this. We should want to know. We should want to know.

Now, to provide some evidence or marshal some evidence for this amendment, let me just read from this very fine piece by Burt Solomon. In quoting one Federal official:

> ''I don't think we will be following enough people thoroughly enough''—or long enough—''to get a [strong] understanding of what's going on,'' a federal official steeped in welfare policy said. Queried about whether there are plans to better organize monitoring, the official replied: ''I think the answer is, not really.''

Mr. President, I think that is sort of an apt summary. We just do not right now have any coordination. We do not have anybody who is responsible for collecting the data to be able to tell us what is happening to these families.

Secretary Shalala gave a speech at the American Enterprise Institute on Friday, February 6. I will start out at the beginning of her speech. She said:

> But we also have a moral obligation to keep making improvements in welfare reform, and in our social policies.

She is talking about how, now that we have had this law for a while, it is time to ask the questions and figure out where we need to go from here.

> ''Today, fewer than 4 percent of Americans are on welfare. What we don't know is precisely what is happening to all of these former welfare recipients.'' We know that some have married or moved in with family or friends. Others have left the rolls and are holding on to jobs that they were already going to—what is sometimes called the smoke out effect. But what's important is that many are looking for work—and finding it.

Many are looking for work and finding it. But the real issue is that we still do not know what is happening to these 4 million people who are no longer on the rolls.

I go on to quote from her speech:

> States are working hard to enforce the mandatory work requirements in TANF. Sanctions were actually rising even before TANF. Still, most of the 33 states that were authorized by waivers to impose full-family sanctions rarely did so. Now, when sanctions are imposed, it's usually because recipients fail to show up for their initial appointments—not because they refuse to comply with work requirements.

Mr. President, I just want to make the point that one of the things that is happening—it is happening in my State of Minnesota—is a lot of people are basically getting cut off welfare because they are sanctioned. They do not show up for some of their initial appointments. But the question is whether they do not show up for their initial appointments because they do not want to work, or is it because they do not have transportation? Or is it because there is not adequate outreach?

Or it is because we are imposing a kind of stability in the lives of people who sometimes have to deal with crisis after crisis? Or is it because, with a lack of child care arrangements, they cannot be there?

I mean, we want to make sure that people are not just being eliminated from the rolls and then, not having any employment opportunities or having jobs that barely pay minimum wage, are worse off a year from now, and they no longer have any health care. I read from an editorial from the Minnesota Star Tribune entitled ''Life After Welfare—States Must Ask the Right Questions.'' I just quote one relevant section.

The federal law requires states to submit lots of data on the number of clients who receive benefits and who find jobs, but it is almost silent on the issue of family well-being after clients leave welfare. As federal bureaucrats draft new reporting requirements, there's a danger that Washington and the governors will define ''success'' as merely cutting caseloads.

And this is the conclusion of the editorial:

It's worth remembering that Congress didn't tackle welfare reform because caseloads were rising—they were already falling by 1996. It wasn't because assistance costs were climbing—cash welfare to families has been stable at less than 2 percent of the federal budget since Richard Nixon was in office. It was because welfare was seen as a failed program that fostered other social pathologies: idleness, drug use, broken marriages and neglected children. Having blamed welfare for these problems, it seems only fair to find out whether welfare reform is solving them.

Again, what I am saying to my colleagues is that I think it is terribly important that at least we understand—and to ask the Secretary of Health and Human Services to provide some reporting of data as to—what is happening around the country so that we have some understanding how many of these families have found work, how many of these families are reaching self-sufficiency. Or are matters worse off? What has happened to those parents? And what is happening to these children?

If it is, colleagues, the best-case scenario, I am all for it. If we pass this amendment and the Secretary provides us with some data, assuming she has the data—if she can't pull together data, then we have to figure out what we need to do in order to understand what is happening in the country—if she provides data that shows us that, as we look at this reduction of caseloads by 4 million, that many of these mothers and many of these children are better off, great.

But if, in fact, we find that people have been cut off but haven't found a job, or they find a job that barely pays minimum wage and there is not adequate child care and some of their children are in harm's way as a result of this legislation, then we need to know that as well. Certainly we can't just follow through on eliminating all assistance for all families until we understand whether or not these families have reached economic self-sufficiency.

Mr. President, I quote from an article in the Philadelphia Inquirer on a recent study by Tufts University:

Despite numerous reports of welfare reform's early success, most states have enacted measures that hurt the families they're supposed to help, a national study at Tufts University pointed out that only 14 states have welfare policies that are likely to improve the economic conditions of poor families.

Let me read a hard-hitting statement by J. Larry Brown, who is director of the poverty center at Tufts University, which I concede has been controversial because they have issued reports over the years. They have been at this for decades, and they focus a lot on malnutrition, hunger and poverty, especially among children in America. Sometimes we don't like what they say because it is just unpleasant news. But I think their research is terribly important, and I will read from J. Larry Brown:

The evidence shows that as of now welfare reform is failing, and it is failing badly. The vast majority of states are not developing programs to improve the economic circumstances of the poor.

Mr. President, I ask unanimous consent that an executive summary of the Tufts University study be printed in the RECORD.

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

[From the Tufts University Center on Hunger and Poverty, Feb. 1998]

ARE STATES IMPROVING THE LIVES OF POOR FAMILIES?—A SCALE MEASURE OF STATE WELFARE POLICIES

EXECUTIVE SUMMARY

The Tufts Scale measures whether each state is making progress toward increasing the economic security of poor families under the newly ''devolved'' welfare system created by Congress in 1996. It also compares whether each state's progress toward this goal is better or worse than that of other states. Results of the study show that:

The majority of states have created welfare programs that ultimately will worsen the economic circumstances of the poor.

More than two-thirds of all states (35) have implemented state welfare policies that will make the economic situations of families worse than under the old welfare system.

Less than a third of all states (14) have implemented state welfare policies that are likely to improve poor families' economic conditions.

Overall, more states in the Northeast and Western region received positive scores on the Scale, indicating they have created state welfare programs that are more likely to help families achieve economic self-sufficiency, while more states in the South and Midwest received negative scores, indicating that their new welfare policies are likely to make self-sufficiency harder to achieve.

Of the fourteen states whose new welfare policies are likely to improve family economic well-being, seven (VT, RI, PA, NH, ME, CT and MA) are in the Northeast, four (OR, CA, WA, and UT) are in the West, two (IL and MN) in the Midwest, and one (TN) in the South.

Of the fourteen states whose new welfare policies are likely to worsen family economic security the most, seven (FL, NC, LA, MS, AL, GA and DC) are in the South, four (OH, IA, MO and KS) are in the Midwest, two (WY and ID) in the West, and one (NJ) in the Northeast.

Two states represent the extremes in measuring progress and failure to date:

Vermont, with a score of +12, is the state whose new welfare policies are most likely to improve the economic security of recipient families.

Idaho, with a score of −15.5, is the state whose new welfare policies are most likely to worsen the economic conditions of poor families.

The cornerstone of the newly decentralized national welfare system is the TANF Block Grant. Under TANF, states are given unprecedented flexibility to create and implement customized state welfare programs to help families become economically self-sufficient. Yet the Scale results show that the vast majority of states have adopted policies under their TANF Block Grants that are likely to worsen the economic security of poor families instead.

Forty-two states have adopted policies under their TANF Block Grants that are likely to worsen the economic security of poor families.

Eight states (VT, OR, NH, MA, WA, RI, ME, and CT) have implemented policies under their TANF Block Grants that are likely to improve poor families' economic security in comparison to the old welfare system.

Vermont received the highest score on the TANF section of the Scale (+7), indicating that it has implemented policies under its TANF Block Grant that are more likely than all other states to improve family economic security. Idaho received the lowest Scale score for TANF (−15.5), indicating that its TANF policies are more likely than those of any other state to worsen family economic security.

The Child Care and Development Fund was created under PRWORA to assist families in obtaining child care so that adults could engage in activities eventually leading to self-supporting employment. According to the Scale, all states except one have adopted child care policies which are likely to improve family economic security compared to their policies under prior law.

All states except Wyoming have implemented child care policies in their new state welfare programs that are likely to improve family economic security.

Six states (CA, MS, NE, PA, RI and VT) received the highest score on the child care part of the Scale.

The Tufts Scale was designed to provide early feedback to help evaluate the likely impact of state welfare program inputs on family economic well-being while the nation waits for longer-term measures of their outcomes. Each state's score provides a measure of whether that state is using its newly available flexibility to invest in the economic circumstances of poor families.

Concerns have been raised by some critics of the 1996 welfare reform law that ultimately it will further impede the economic viability of poor families. The data reported here suggest that these concerns may be well founded. While a few states have made choices which can improve the lives of poor families in their states, most are disinvesting in the poor.

COMPARING STATES' OVERALL TUFTS SCALE SCORES

Table 2 shows overall state scores ranked in descending order (highest to lowest). Recalling from Table 1 that the range of possible overall scores is −38 to +22, it is clear that no state did as little, or as much, as could have been done to change the impact of its welfare programs on the economic security of poor families with children. The

highest overall score of +12 points, received by VT, fell 10 points short of the maximum score. The lowest score of −15.5 points, received by ID, was also 22.5 points higher than the minimum.

TABLE 2.—OVERALL TUFTS SCALE SCORES WITH STATE RANKINGS

State	Rank	Score
VT	1	12.0
OR	2	7.5
RI	3	6.5
PA	4	4.5
NH	4	4.6
ME	4	4.5
CA	4	4.5
WA	8	4.0
CT	8	4.0
UT	10	2.5
IL	10	2.5
MN	12	2.0
MA	12	2.0
TN	14	1.5
NY	15	0.0
NE	15	0.0
VA	17	−0.5
TX	17	−0.5
MT	19	−1.0
DE	20	−1.5
NV	21	−2.0
HI	21	−2.0
CO	21	−2.0
AR	21	−2.0
AK	25	−2.5
NM	26	−3.0
ND	26	−3.0
MI	28	−3.5
MD	28	−3.5
WV	30	−4.0
WI	30	−4.0
SC	30	−4.0
AZ	30	−4.0
SD	34	−5.0
OK	34	−5.0
KY	34	−5.0
IN	34	−5.0
OH	38	−6.0
FL	38	−6.0
NC	40	−6.5
LA	40	−6.5
IA	40	−6.5
NJ	43	−7.0
MO	44	−8.0
MS	45	−9.0
AL	45	−9.0
GA	47	−9.5
DC	48	−10.0
KS	49	−11.0
WY	50	−12.0
ID	51	−15.5

Generally, states in the Southern region scored lower than states in the Northeast. Among the fourteen states receiving overall scores above zero, seven are in the Northeast region (VT, RI, PA, NH, ME, CT and MA), and four are in the Western region (OR, CA, WA and UT). Two states in the top fourteen are in the Midwestern region (IL and MN), and one (TN) is in the South. Of the fourteen states with lowest overall scores, seven are in the Southern region (FL, NC, LA, MS, AL, GA, and DC), four are in the Midwest (OH, IA, MO and KS), two in the West (WY and ID), and one in the Northeast (NJ).

During the 1996 policy debate over ''devolving'' welfare to the states, leaders in six states were particularly active in efforts to obtain greater state prerogatives. In the states of CA, MD, MI, NJ, OH, and WI, governors made welfare reform a major component of their policy agendas[18]. All of these states except one are doing worse than their peers in terms of promoting the economic security of recipient families. With one exception, all these states received scores at or below the median value of −3 points, while two (OH and NJ) scored among the worse in the nation. CA scored among the top fourteen states with an overall score of +4.5 points (though several of its newer policies were not implemented until after October 1997).

Overall, fourteen states created welfare programs demonstrating greater investment in the economic security of poor families, while two states maintained the status quo under prior law. Thirty-five states (including DC) designed welfare programs which are likely to worsen the economic security of poor families.

Mr. WELLSTONE. Mr. President, let me cite two other pieces of evidence to support this amendment and to explain to my colleagues why I have been out here from the word ''go'' trying to get us to go on record on this question.

This is a piece from the Milwaukee Journal Sentinel. The title is ''Few Leave Welfare Earning Above Poverty Level.'' This is about a study of welfare recipients in Wisconsin.

Only about 1 in 6 families that left welfare in Milwaukee County in 1996 earned more than poverty-level wages. This is in Wisconsin, which has really put an all-out effort to invest in this reform.

Let me read again:

Only about 1 in 6 families that left welfare in Milwaukee County in 1996 earned more than poverty-level wages in a three-month period, according to the most conclusive examination yet of what is happening to local families under Wisconsin's sweeping welfare initiatives.

It goes on to point out that ''the turnover rate among those workers was extremely high—in part because the jobs were concentrated in industries that typically have plenty of part-time spots and a more transient work force.''

By the first quarter of 1997, welfare recipients had left most of the jobs for which they were hired the previous year.

So again, let's just understand that this is a study that comes out based on what is happening in Milwaukee County in Wisconsin, saying one out of six families that left welfare earned more than poverty level wages—only one out of six. Moreover, a lot of the jobs are part-time jobs, jobs that people can't count on, and a lot of people had to switch from one job to another.

Finally, Mr. President, an article that appeared in the Star Tribune in my State, ''Parents Face Cuts In Welfare Checks.''

Hundreds of Minnesotan parents are in danger of having their welfare checks reduced starting March 1, the first wave of penalties meted out under the state's new welfare law.

Interestingly, in Hennepin County about 50 percent of the parents converting to the new welfare system are showing up for orientation meetings at work; about 70 percent are showing up in Ramsey County.

A lot of these families are in crisis. Some don't plan well—the bus can be late, they can't work out arrangements for kids. The question is going to be whether or not we are going to basically be sanctioning people and cutting people off, even people who want to work.

Now, summarizing what this amendment says, we call on the Secretary of Health and Human Services to take a look at those families who have now been moved off welfare around the country and to provide us with some data as to what the current situation is. The whole goal of this bill was to move families from ''welfare'' to ''workfare,'' to move families to economic self-sufficiency. That is what we said it was about.

I have said to colleagues today on the floor of the Senate that from articles that are now coming out, looking at what is happening around the country, we see some evidence that a lot of people who have been moved off welfare have not been able to obtain jobs that pay a decent wage, have not been able to obtain employment that gets a family anywhere close to 150 percent of poverty—out of poverty. I am saying to colleagues that Secretary Shalala, who has been very direct and honest herself, has said we need to know more about what is happening with these reform efforts.

I'm saying to colleagues today that there have been some pretty hard-hitting studies that have come out, the Tufts University study being one, which have said that actually it is pretty harsh what is happening around the country. I'm saying that as I travel around the country I have tried to spend time in low-income communities. I have tried to be with people. I have tried to understand what is happening. I don't have all the empirical data, but I am just saying to colleagues what I have observed, and I think I have been honest in my observation. I have been in too many communities with long waiting lists for affordable child care for working poor, moderate income families, and now welfare. Therefore, a lot of these mothers go to work but there is not adequate child care for their children.

I don't want to see, nor should any of my colleagues want to see, more children put in harm's way because of action that we have taken. I am saying to colleagues that in too many inner-city communities and too many rural areas, people have said to me that the jobs aren't there, nor is the transportation available to enable them to get to some of the jobs, that they would work, for themselves and their families.

I am saying to colleagues that you cannot argue that because there has been a reduction of 4 million recipients, that that represents reform if it hasn't led to reduction in poverty. You can't say something is working well if what is happening is that many of these families are economically worse off and many of these children are not better by what we have done.

I am saying to colleagues that I have heard enough speeches on the floor of the Senate about children. I have heard enough speeches about the very early years being very important for nurturing of a child, very important to fire up a child's imagination. I am saying to colleagues that in a whole lot of cases these single parents—almost all women, even with children younger than 1—are being told they have to leave the home and take a job. We

[18] Norris, D.F., and L. Thompson, The Politics of Welfare Reform, SAGE Publications, Thousand Oaks, CA, 1995.

don't know what is happening to those 1-year-olds, those 2-year-olds, the 3-year-olds and their 4-year-olds. It is our obligation to know what is happening to those children.

I am making a plea to my colleagues. This is, I say to Senator CHAFEE and Senator BAUCUS, a moderate PAUL WELLSTONE amendment. This is a moderate version. All this does is say, please, let's ask the Secretary of Health and Human Services to pull together some data and make reports to us every half a year as to how many of these families are reaching economic self-sufficiency so we have some understanding of what is going on in the country.

Before I yield the floor—and I am not prepared to yield the floor—might I ask the Senator from Missouri, because I don't want to keep him waiting long, but before yielding the floor, might I ask my colleague whether he is here to debate the amendment or intends to introduce another amendment.

Mr. BOND. Mr. President, I am interested in knowing when I might have the floor. I have a brief statement on the measure.

I will have something to say about this, but I ask my colleague how long he intends to go on.

Mr. WELLSTONE. Mr. President, if I understand my colleague from Missouri, if he has a statement on the overall legislation or something else aside from the amendment, then I want to inquire of the Senator from Rhode Island as to whether or not this amendment will be accepted. If it will be accepted, then we can dispose of it and move on.

If the Senator from Missouri means he has another point of view and wants to speak on this amendment, I am glad to yield the floor and then come back and respond to some of his arguments. I am not quite sure what he has in mind.

Mr. CHAFEE. Mr. President, it is my understanding the Senator from Missouri is going to speak on the underlying bill. Is that correct?

Mr. BOND. Mr. President, I am prepared to address the finance amendment that we reported out today and that will be brought up for debate, we hope, perhaps later today or tomorrow under the unanimous consent agreement. I wanted to speak briefly about that.

Mr. WELLSTONE. Might I ask the leader as to whether or not he has any additional information as to how he wants to proceed?

Mr. CHAFEE. What I suggest, Mr. President, is that the Senator from Missouri is not going to be very long. We will be in 45 minutes anyway, or more, before we recess. So I suggest if we could just let the Senator from Missouri go ahead, and then I have some comments I will direct to the Senator from Minnesota. That is my suggestion.

Mr. WELLSTONE. Mr. President, I don't want to keep my colleague from Missouri waiting. It would be fine with me, I say to the Senator from Rhode Island. I await eagerly his response. I hope we can reach some agreement on this.

I do have more to say about this amendment, but I don't want to inconvenience my colleague from Missouri. I am pleased to relinquish the floor.

The PRESIDING OFFICER. The Senator has relinquished the floor.

The Senator from Missouri.

Mr. BOND. Mr. President, I thank the Chair.

I say in response to my colleague from Minnesota, be careful about relying on the Tufts study. The officials in charge of public assistance in my State and other States have pointed out some rather serious flaws in that study. We all share concerns about assuring there is adequate transportation, adequate day care, child care, for people moving from welfare to work, and I am not here to debate that amendment. At the appropriate time, we will review that amendment.

What I wanted to call to the attention of my colleagues is the fact that yesterday my good friend, the distinguished chairman of the Environment and Public Works Committee, Senator CHAFEE, along with Senator BAUCUS, Senator GRAMM, Senator BYRD and the very distinguished chairman of the Budget Committee, Senator DOMENICI, announced agreement on funding levels for the highway authorization for the next 6 years. It will be $171 billion for highways.

Let me explain what that means for my State of Missouri. Under the formula that was passed out of the committee as a committee amendment today, Missouri would receive $3.6 billion—that is billion dollars—compared to $2.4 billion that Missouri received over the last 6 years of the 1991 transportation bill. Missouri's average allocation per year would be around $600 million, as opposed to the $400 million the State was receiving under the old.

That is tremendous progress. I am deeply indebted to the leadership of our committee and particularly to the budget chairman for making these dollars available. This is vitally important. Everybody in this Chamber knows how important funding for transportation is.

I was not a cosponsor of the Byrd-Gramm amendment, but I have always made clear and reiterated my support that highway money and transportation money should go for highways. In Missouri and across the country, when people go to the gas pump, buy gas and pay a tax, they think it is going to the highway trust fund. They think it is going for transportation purposes. And that is a reasonable assumption, except that in this body we have divorced the revenue from the spending stream and in the past we have had that money siphoned off to cover overspending elsewhere. In the 1993 major tax increase, a 4.3-cent tax was levied for deficit reduction.

Now, I believe that the transfer of the 4.3 cents back to the highway trust fund instead of deficit reduction has not only made a significantly increased amount of money available for transportation needs, but it has, I think, put the ''trust'' back into the highway trust funds. That is what we ought to be about; that is what we ought to be telling the people who are paying those taxes. We are recommitting ourselves to the basic principle and promise that we made, which is that when we provide the revenues to the Government under the dedicated gas tax money, we are going to use it for roads, bridges, highways and transportation when it's collected.

In Missouri, these funds are desperately needed. I daresay that I have heard stories from other States where they understand the importance of highway dollars. I came to the floor last week and explained that the debate over transportation funding and policy was not just an academic debate for Missourians. It is about, obviously, convenience and ease of transportation. It is about economic growth because, in our State, you can see where jobs occur. They occur where there are good highways. But most important, good highways and bridges are matters of life and death in Missouri. Highway fatalities in the State of Missouri increased 13 percent from 1992 to 1995, and many of us in Missouri know somebody or several people who have lost their lives on highways. And 77 percent of the fatal crashes during this timeframe occurred on two-lane roads.

Mr. President, it is a simple matter. When you have heavy traffic on two-lane roads, you have traffic delays, somebody gets anxious and pulls out to pass, and if there is a hill, if there is a curve, or if there is an unseen hidden spot in the road, a head-on crash occurs. That has happened too many times, and it happens because the two-lane roads that we are driving on are carrying traffic that everybody agrees should be carried on four-lane roads. This is why I say it is a matter of life and death.

In Missouri, 62 percent of the roads on the National Highway System, when you exclude the Interstate System, are two-lane roads—two-lane roads that are supposed to be part of our National Highway System. We are in the top 10, in terms of highway count, in the number of cars traveling those roads. Many of those National Highway System roads don't even have shoulders on them. So if somebody comes across the line and you are passing a large truck, if you move too far to the right, you are off on the shoulder, and that can be deadly.

In addition, my State of Missouri has the oldest—I repeat, the oldest—bridges in the country. There are a number of things that we like to be No. 1 in, but having the oldest bridges and some of the worst conditions in the country is not one of them. This is a dubious distinction. We are sixth from

the bottom in the condition of our bridges. These are the reasons that the highway funding formula and the transportation bill is so vitally important in my State. The potential funding that this bill provides is a huge step in the right direction to save lives on Missouri's highways, roads, and bridges. Last week, I told the story of driving across some of the bridges in our State where you can look down and see the water. That is not reassuring. They don't design them as ''see-through'' bridges. Years and years of decay have opened up gaping holes, which is a frightening prospect when you are crossing the Missouri River or the Mississippi River.

I urge my colleagues to work through the budget and the appropriations process to determine that we will make the real funding commitment and that we will meet that funding commitment that we put forward in this bill.

When I began this process, when I started work on it, I had two primary goals. One was for the transportation bill to increase the overall size of the pie for highways, and getting that 4.3 cents in is vitally important. Secondly, Missouri, as one of the donor States, needed to get its share up. I believe these two conditions are met.

You may recall last fall when filibusters held up the bill I crafted a bipartisan interim solution that enabled highway funding to continue through May 1 of this year, which means, as the distinguished occupant of the chair knows, we will be the bedeviled by those orange and white barrels this year. They will be springing up on our highways like the summer road flowers along the highways. They are going to be blossoming. I am pleased to be causing those headaches. But we need to continue the orange and white barrels; we need to continue that construction.

I know the funding debates are far from over. As I mentioned last Friday, there are reasonable people who have passionate differences, and there is nothing like a highway funding fight to bring out those differences. We hope that it is merely a matter of verbal debate. But when it comes to highway funding, these differences have been visible and audible. I want to express again my sincerest thanks to Senator CHAFEE, Senator BAUCUS, and Senator WARNER, for their leadership in working with committee members to avoid the ''guerrilla warfare'' that has been known to erupt on the highway bill in the past. I told the committee that I thought the leadership had achieved a rough system of justice that would make it possible for us to move this bill forward.

Nobody is going to get everything that they want, but I believe that reasonable compromises have been made, and there may still be more made. We need to get this bill moving. I look forward to working with the members of the committee and my other colleagues throughout this process to achieve the goals that we all have for our States, that I have for my State of Missouri, but, most important, that we all must have for our national transportation policy.

Again, my thanks to the leadership and my congratulations for the great staff work. We look forward to working on it. It will be an interesting debate.

I thank the Chair.

Mr. CHAFEE. Mr. President, I want to thank the distinguished Senator from Missouri for those kind comments. We have worked closely together, and he has been a valuable member of the committee, not only on highway matters, but in other matters likewise. We look forward to his vigorous support as we move forward with this legislation.

Now, the Senator from Minnesota, I believe, has matters to discuss.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, let me also associate myself with the remarks of the Senator from Missouri. I think all of us owe a debt of gratitude to our colleagues, Senator CHAFEE and Senator BAUCUS, for their determination and doggedness in getting this bill on the floor. This is a very important piece of legislation, I think, for all of our States.

Mr. President, I think the Senator from Rhode Island, in a moment or two, has some questions he wants to put to me. While I am waiting for that, let me just, for my colleagues' information, give the official poverty level income for a family of one woman and two children. It is $12,516. And 150 percent is $18,774.

This amendment, everybody should understand, doesn't dictate anything. It doesn't say that every family of three ought to be able to make that income of $18,000. It doesn't mandate anything; it doesn't dictate anything. It simply says—look, I think people trust me, and I have traveled the country, and I am telling you that some of what is going on—I am not pointing the finger at any particular point, although it is uneven. It is harsher in some States than in others, but we do need to understand exactly what is going on, whether or not these families are able to find jobs and whether or not these are jobs with decent wages, and what is going on with their children. We need for the Secretary to kind of bring together some data and present reports to us so we have knowledge about this.

I see the majority leader on the floor. I would be happy to yield to the majority leader. Then if my colleague has questions he wants to put to me, I would be pleased to respond.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, I thank the Senator from Minnesota for yielding me this moment of time. It won't be long.

GOLDEN GAVEL AWARDED TO SENATOR PAT ROBERTS

Mr. LOTT. Mr. President, since the 1960s, the Senate has recognized those dedicated Members who preside over the Senate for 100 hours with the Golden Gavel Award. Today, we add to the list of Golden Gavel recipients the current Presiding Officer, Senator PAT ROBERTS of the great State of Kansas, whose presiding hours now total over 100 hours, effective as of today.

I want to say this, too: I have found that, as Presiding Officer, Senator ROBERTS is reliable and enthusiastic. He maintains order, sometimes running the majority leader from the floor of the Senate Chamber if he insists on talking when not properly recognized. He maintains order with a firm hand, but, most importantly, he is consistently willing to come to the Chamber and preside over the activities here in this Chamber. He is able to handle problems that arise in an appropriate way and without hesitation. So it is with sincere appreciation that I announce the newest recipient of the Golden Gavel Award, Senator PAT ROBERTS of Kansas.

I have already determined that when we have moments of really important legislation, and when rulings of the Chair are going to be necessary and need to be made rather quickly so we can complete the business of the day, we have a new suspect that can assume the position as Presiding Officer, Senator ROBERTS of Kansas. Thank you very much for the job you have done in helping us to preside and keep the Chamber in order.

[Applause.]

The PRESIDING OFFICER. The Presiding Officer observes that under the Senate rules the Presiding Officer cannot participate in debate or comment from the dais. Should that rule not be in effect, the Presiding Officer would publicly state his thanks to the majority leader for the kind comments. But that is not permitted under the rules. The Presiding Officer is unclear about the majority leader's intent. Does the majority leader intend to introduce that in the form of a resolution, or does he intend that it be simply made part of the RECORD?

Mr. LOTT. I think it would be appropriate just to be made part of the RECORD. I appreciate the ruling of the Chair on this matter, which I did not ask a question about. Thank you.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I will add a half minute to what the majority leader said. I think one of the most important things that the Senator from Kansas does—and I mean this—is that, regardless of whether or not he is in agreement with you, he is looking at you. A lot of the times that doesn't happen. It means a lot when you have somebody presiding who has

the graciousness to be looking at you with respect and to be listening to the debate. He always does that. I can never tell whether he is in agreement or disagreement. That means a lot to me. I suspect that he is usually in agreement with me, but I am not so sure.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1679

Mr. WELLSTONE. Mr. President, I might ask the Senator from Rhode Island if he has any questions. He said he wanted to ask some questions of me.

I yield the floor.

Mr. CHAFEE. Mr. President, I would like to direct, if I might, a couple of questions to the Senator from Minnesota.

I have looked over this amendment, and it's an amendment, obviously, that is in the jurisdiction of the Finance Committee, as the Senator from Minnesota has indicated. And the amendment has just been introduced, so, obviously, there have been no hearings before the Finance Committee, and it's not a matter that has previously been considered by the Finance Committee, if I understand this correctly. I ask the Senator from Minnesota if that is accurate.

Mr. WELLSTONE. Mr. President, that is accurate. Since we are not in court, and the Senator from Rhode Island is always gracious, let me go beyond the ''yes or no'' answer. It is not at all clear that there will be necessarily a welfare bill from the Finance Committee or a bill that I can raise this question on. We now have a vehicle out here on the floor. My feeling was that, since this amendment calls for nothing more than just to ask the Secretary of Health and Human Services to provide data and analysis to us, based upon what data she has as to what is going on with welfare reform, it doesn't seem to me that this really needs a hearing. It is pretty clear and straightforward and, I think, pretty noncontroversial.

Mr. SPECTER. Mr. President, I am voting against Senator WELLSTONE's amendment because I think it is inappropriate to place it on the pending bill, the Intermodal Surface Transportation Efficiency Act.

I do believe it is a good idea to have the Secretary of Health and Human Services obtain information from the States as to the impact of the welfare reform law on current and former recipients of federal aid, but this critical transportation bill should be moved as expeditiously as possible to get highway, transit, and safety funding moving to the States and our communities as rapidly as possible.

When the 1996 welfare reform law was considered, I noted that only time will tell if that legislation resulted in an unacceptable level of hardship on poor Americans, particularly children. Current law contains data collection requirements with respect to the impact of the changes in welfare law, and as Chairman of the Appropriations Subcommittee which funds the Department of Health and Human Services, I was pleased to provide $26 million for Fiscal Year 1998 for the Department to undertake the kinds of research and analysis we need to determine the true impact of the 1996 law. Further, as Chairman, I will continue to monitor closely the Department's performance in administering the new welfare regime. If Senator WELLSTONE offers this amendment on an appropriate bill, I will likely support it.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. CHAFEE. Mr. President, I note that this is a piece of legislation that would direct the Secretary to develop a plan. In other words, as I read page 2 here, it says the Secretary shall develop a plan, to the extent possible based on all available information, and so forth.

What I would like to do, Mr. President, is hear from our people on the Finance Committee, which should be very shortly, and I will then see that the Senator from Minnesota has every opportunity to bring this to a vote, should he wish to, this afternoon. We will work it out. He is not going to be blocked in any fashion. But I would like to hear, and it may well be that we can accept the amendment, and that would save us all some time.

We are now just trying to check with the Finance Committee. It may be well that something from the Labor Committee is involved likewise, although it seems to me that this is pretty much a Finance Committee matter. When we get back, after our luncheon recess has concluded, I will speak to the Senator from Minnesota, and we will then be able to go from there.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank the Senator from Rhode Island. I say to him that I will bring the amendment to the floor in good faith with some sense of urgency, because I think it is important that we know what is happening in this matter. I take the Senator at his word. I am pleased that we will proceed this way. I say to my colleague that I hope there will be support for it. That is, of course, the whole purpose of my effort. If there should be some disagreement, then I would want, of course, the opportunity to respond to whatever other positions are taken on this amendment.

I thank the Chair. I yield the floor.

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

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

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to speak for up to 10 minutes.

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

Mr. BINGAMAN. Mr. President, I want to discuss a very important matter relating to the safety of our Nation's highways and streets, and that is DWI-related injuries and fatalities. To use more common parlance, drunk driving. This is a problem that, in spite of many prevention efforts, remains a very serious concern in our country.

The statistics are compelling. For example, on Thanksgiving, Christmas, New Year's Eve and New Year's Day 1996, those 4 days combined, there were 576 DWI-related fatalities on our Nation's highways. In that same year, 1996, nearly 1.1 million people were injured in alcohol-related crashes.

Motor vehicle crashes are the leading cause of death for 15- to 20-year-olds. I think that statistic alone should get the attention of the U.S. Senate and the Congress of this country. Motor vehicle crashes are the leading cause of death for 15- to 20-year-olds throughout this country. About 3 in 10 Americans will be involved in an alcohol-related crash at some time in their lives. Alcohol-related crashes cost society $45 billion annually, and to make matters worse, the loss of quality of life and pain and suffering costs are estimated to total over $134 billion annually.

My home State of New Mexico is not exempt from these problems. In fact, the National Traffic Safety Administration reports that my State of New Mexico leads the country in DWI-related deaths per capita. The rate in New Mexico is 11.79 deaths per 100,000 people. This rate is 19 percent higher than the No. 2 State, which is Mississippi, and it is more than twice the national rate, which is merely 5.05 deaths per 100,000 people.

Indeed, these statistics paint a very grim picture. What makes the picture even more tragic, Mr. President, is that DWI-related injuries and fatalities are preventable. It clearly is within our national interest to do what we can to reverse this statistic. One obvious way to prevent further deaths is to ensure the sobriety of drivers. That is why I am proud to cosponsor the bill that Senators LAUTENBERG and DEWINE have introduced to establish a national blood-alcohol content standard of .08. Additionally, I am cosponsoring Senator DORGAN's bill to prohibit open containers of alcohol in automobiles. I urge my colleagues to help pass these bills this year.

Another contributing factor to the problem that I believe would make a significant difference in eliminating the problem is the practice of selling alcoholic beverages through drive-up

sales windows. This practice only makes it more easy for a drunk driver to purchase alcohol and contributes heavily to the DWI fatality rate in my home State and throughout the country. Eliminating these drive-up liquor windows is essential to reducing these injuries and fatalities.

Tomorrow I will introduce legislation entitled the ''Drunk Driving Casualty Prevention Act of 1998'' to prohibit the sale of alcohol through drive-up sales windows. I hope to have some cosponsors for that provision at that time.

Mr. President, this ban will make a difference. According to one study, there are 26 States that do not permit drive-up windows. In 1996, these States had, as a combined effort, a 15-percent lower average drunk driving fatality rate than the 24 States that permit sales through drive-up windows.

In the States with the ban, the average rate was 4.6 for 100,000 people as opposed to 5.46 in all other States. On a percentage basis, States with a ban had a 14.5 percent lower drunk driving fatality rate than States that permit sales through windows.

In 1996, comparing 19 Western States in particular, the nine States that have a ban in place had a 31 percent lower average drunk driving fatality rate than the States that permit sales.

In 1995, there were 231 drunk driving fatalities in my home State of New Mexico. Based on the 14 percent lower drunk driving fatality rate, it is estimated that closing drive-up liquor windows could have saved between 32 and 35 lives in that year in my State. Nowhere is it more true that if we can save one life by closing these windows, we need to do that.

The difference can be explained because there are three main benefits that accrue when you close drive-up liquor windows.

First, once the windows are closed, it is easier and more accurate to check the identification when the customers have to purchase their liquor over the counter. Minors have testified that it is very easy to illegally purchase alcohol at a drive-up window where it is difficult to determine their age.

A second benefit is that it is easier to visually observe a customer for clues that that customer is impaired by alcohol or other substances if they have to walk into a well-lighted establishment to make their purchase.

In one municipal court in New Mexico, 33 percent of the DWI offenders reported having purchased their liquor at drive-up windows. Some members of Alcoholics Anonymous say they now realize they could have known each other years earlier if they only looked in their rearview mirror while waiting in line at the drive-up window to buy their liquor.

And third, it sends a clear message to the population that drinking and driving will not be allowed to mix.

The Behavior Health Research Center of the Southwest conducted a study, the purpose of which was to determine the characteristics and the arrest circumstances of DWI offenders who bought alcohol at drive-up liquor windows compared to those who obtained it elsewhere. Nearly 70 percent of the offenders studied reported having purchased the alcohol that they drank prior to arrest. Of those offenders, 42 percent bought packaged liquor, and the drive-up window was the preferred place of purchase.

The study showed that drive-up window users were 68 percent more likely to have a serious alcohol problem than other offenders. Drive-up window users also are 67 percent more likely to be drinking in their vehicle prior to arrest than other offenders are.

Mr. President, we have had one sort of test case in New Mexico, and that is in McKinley County. It was one county in our State that had a terrible problem with DWI and petitioned our legislature for permission to close the windows in that county, the drive-up windows. They did close those windows. Businesses in that community did not see their profits cut in two—the liquor businesses. In fact, they saw their profits jump. The DWI prevention strategy that was employed in McKinley County reduced the fatality rate from 272 per 100,000 in 1989 to 183 per 100,000 in 1997.

Mr. President, I believe we have a great opportunity here to reduce DWI injuries and fatalities. I plan to offer this amendment to the ISTEA legislation tomorrow or later this week. I urge my colleagues to join me in cosponsoring that legislation.

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

The PRESIDING OFFICER. Will the Senator withhold suggesting the absence of a quorum?

Mr. BINGAMAN. I do withhold.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate now stands in recess.

Thereupon, at 12:34 p.m., the Senate recessed until 2:15; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

The PRESIDING OFFICER. In my capacity as a Senator from the State of Indiana, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

The Senate continued with the consideration of the bill.

Mr. CHAFEE. Mr. President, the pending business, as I understand it, is the Wellstone amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. CHAFEE. I ask unanimous consent to set aside the Wellstone amendment for the consideration of a McCain amendment.

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

AMENDMENT NO. 1680 TO AMENDMENT NO. 1676

(Purpose: To deal with matters under the jurisdiction of the Committee on Commerce, Science, and Transportation)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. HOLLINGS, proposes an amendment numbered 1680.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. MCCAIN. Mr. President, first of all, I thank Senator CHAFEE for all of his efforts on this ISTEA issue. He has done a remarkable job. He is a remarkable man. I had the privilege of working for him when he was Secretary of the Navy, and he sometimes felt he didn't provide me with enough leadership at that time. But I am grateful for everything that he has done, and I'm especially grateful for his leadership on this very, very important issue to our Governors, our mayors, our county supervisors, and our city councils.

I say to my friend from Rhode Island, about 50 county supervisors from my State were in yesterday, and this issue dominated their conversation. I am grateful that he has been able to work through this. So the small amount that we are responsible for in the Commerce Committee, I hope, adds to this bill and helps us to move forward as rapidly as possible.

This amendment contains the proposal of the Committee on Commerce, Science, and Transportation to reauthorize ISTEA programs through fiscal year 2003.

The amendment seeks to reauthorize the National Highway Traffic Safety Administration [NHTSA] State safety grant programs, the Motor Carrier State Assistance program, and the Hazardous Materials Transportation Safety Enforcement programs.

The amendment also authorizes new and innovative safety initiatives at the Department of Transportation, including programs focusing on performance-based safety standards and advanced information data analysis.

The amendment is designed to improve travel safety on our Nation's roads and waterways, promote the safe shipment of hazardous materials, protect underground pipelines and telecommunications cables from excavation damage, and ensure that our

Nation's commercial motor vehicle fleet is well maintained and safely operated.

Mr. President, this is a bipartisan product. It incorporates many of the proposals requested in the administration's ISTEA reauthorization submission. The committee product also includes a number of new transportation safety proposals.

Senator HOLLINGS and I have worked to accommodate as many Members' requests and concerns as possible, but there are some outstanding questions.

One of the more difficult areas we faced concerned the many requests we received to provide statutory exemptions for one industry or another from certain motor carrier safety rules. Exemptions were sought from hours-of-service regulations and commercial driver's license requirements. These requests are not new. We face them every time Congress considers legislation affecting Federal motor carrier safety regulations.

Senator HOLLINGS and I worked diligently to avoid any statutory exemptions or regulation carve outs for single industries but to ensure there is a fair process by which all requests can be considered appropriately.

Let me be clear. I agree that under certain circumstances, exemptions from regulations may make sense. For example, I believe it's appropriate to acknowledge the special transportation time constraints of farmers during the planting and harvesting seasons, and that we should recognize the need to permit infrastructure maintenance and repair to operate during weather emergencies.

But blanket exemptions and wholesale legislative carve outs for selected businesses and enterprises can weaken safety. The answer is a fair and credible administrative process.

The Secretary of Transportation currently has the authority to grant exemptions. However, the authority is relatively meaningless because prior to granting a waiver or exemption, it must first be proven the exemption would not diminish safety. That's an appropriate consideration, but how can DOT assess an exemption's safety risk if it can't first test the concept on a limited pilot basis?

In an attempt to address this problem and recognize the Secretary should be permitted to examine innovative approaches or alternatives to certain rules, Senator HOLLINGS and I have worked to define a process whereby the Secretary may more appropriately grant waivers and exemptions. This legislation would also authorize the Secretary to carry out pilot programs to test the affects of limited regulatory exemptions. I believe this pilot approach is reasonable and could be carried out in a structured manner that does not impose a risk on public safety.

The committee's amendment includes three amendments adopted by voice vote when the Committee considered the safety amendment. The three amendments incorporate exemptions for three industries.

When these three amendments were debated in the Commerce Committee, I pledged that I would work with the sponsor to craft a safe alternative to the exemptions. These efforts have not succeeded yet, and I want to inform my colleagues that there will be some proposals in the next hours or days to alter those exemptions.

Finally, I want to thank Senator HOLLINGS and the other members of the Commerce Committee who worked so long and hard to get to the Senate Floor today with this amendment.

I urge my colleagues to adopt this critical and comprehensive amendment.

Mr. President, before yielding the floor I want to comment briefly on the issue of airbags. Last year a compromise was reached on language to be inserted in the ISTEA legislation.

I want to thank Senator KEMPTHORNE for his leadership on this issue. He has done the nation a great service by leading the effort to ensure that airbags will not pose a risk to infants.

We are all aware of the tragic accident in Idaho last year where an infant was decapitated by an airbag and of the other infants and children whose lives have been taken. Senator KEMPTHORNE feels this issue personally and deeply and this amendment will help us address this very serious problem.

I would also like to thank Senator HOLLINGS, and Senators BRYAN, GORTON, ABRAHAM, ASHCROFT, and others without whose involvement and help this compromise would not be possible.

I also thank the Secretary of Transportation and the head of the National Highway Transportation Safety Administration.

I will submit a more detailed statement on this issue later, but I would like to quickly summarize what's happening. This amendment deletes the airbag provision in the pending measure and replaces it with an alternative that codifies the current rule suspending the unbelted crash barrier test and requires the Secretary to begin rulemaking on advanced airbags that are more protective of infants, children and other occupants no later than June 1, 1998.

The Secretary would complete the rulemaking next year and the rule will include a phase-in of advanced airbags beginning with model year 2001 and completed by no later than model year 2005.

The pace of the phase-in shall be determined by the Secretary and shall be as rapid as practicable, but does permit the Secretary to postpone benchmark dates by one year with cause. Any further delays would require an Act of Congress.

Again, I thank all Members who were a part of this effort. I believe it will contribute significantly to traffic safety and I will submit a more detailed statement for the RECORD at a later time.

I want to say, Mr. President, that Senator KEMPTHORNE saw that this issue entailed enormous tragedies. I don't know how one could see an infant being decapitated without being deeply moved. Unfortunately, it wasn't a single incident. There have been numerous fatalities of children. I think Senator KEMPTHORNE's amendment which he will be proposing will be shortly forthcoming.

Mr. President, pending the appearance of Senator KEMPTHORNE, I yield the floor.

Mr. HOLLINGS. Mr. President, I am pleased to offer along with Commerce Committee Chairman, Senator MCCAIN, the Commerce Committee amendment to S. 1173, the International Surface Transportation Efficiency Act (ISTEA).

Mr. President, the Commerce Committee has worked together, in a true showing of bipartisanship, to craft this amendment. In this amendment the Committee has developed proposals to improve travel safety on our nation's roads and waterways, promote the safe shipment of hazardous material, advance pipeline transportation safety, and ensure that our nation's commercial motor vehicle fleet is well maintained and operated. This is not to say that we have left all of our policy disagreements behind us with this amendment. There are several that remain to be resolved and we are still attempting to resolve those issues. But on balance we have an amendment with which we all may be proud. I will take a few minutes to outline the amendment's more important provisions.

The amendment reauthorizes various grant programs administered by the National Highway Traffic Safety Administration (NHTSA), designed to improve road safety. The amendment reauthorizes grants to develop countermeasures to alcohol-impaired driving. Two new grant programs are also created. One encourages States to provide for the primary enforcement of seat belt laws. The second encourages states to improve the quality of their highway safety data.

The amendment reauthorizes funding and strengthens the programs to ensure the safe transportation of hazardous materials. It expands hazardous materials training access by allowing states to use a portion of these grants to assist in training small businesses in complying with regulations. We also strengthen enforcement by giving the Secretary of Transportation the authority to issue emergency orders when it is determined that an unsafe condition poses an imminent hazard.

The amendment also reauthorizes the Motor Carrier Safety Assistance Program (MCSAP) which provides funding to the states for commercial driver and vehicle safety inspections, traffic enforcement, compliance reviews, and safety data collection. Moreover, the amendment removes many of the program's prescriptive requirements in favor of a performance based approach.

The Secretary will have the authority to order unsafe carriers to cease operations. We also authorize additional funds to ensure the timely and accurate exchange of important carrier and driver safety records.

Perhaps most importantly, we provide the Secretary with the authority to establish pilot programs and grant waivers of regulations to motor carriers. If carriers can show that an alternative approach to regulation will aid safety and be less burdensome, the Secretary can authorize such an alternative. Regulation can be tailored to specific circumstances rather than ''one-size-fits-all'' regulation.

In the area of rail and mass transportation safety as requested by the Administration we provide for criminal sanctions in cases of violent attacks against railroads, their employees, and passengers. The amendment also extends the basic Wallop-Breaux Aquatic Resources Trust Fund for boating safety and reauthorizes the Clean Vessel Act, allocating $10 million annually for state marine sanitation device projects and $10 million annually for state boating infrastructure projects.

As I noted earlier, not all of our policy disagreements have been solved. I continue to be concerned about three provisions which seem to undermine our efforts to achieve safer highways. These provisions would allow exemptions from federal regulations for utility drivers and those engaged in agribusiness. Specifically, the federal hours of service act which governs how long a driver may drive in any one day, the hazardous materials transportation requirement that ensures that emergency response teams have the necessary information to combat a hazard material incident, and the Commercial Driver's License (CDL) requirements are waived under these provisions.

I think these exemption provisions ''go the wrong way'' on safety. Indeed, the provisions are also unnecessary given the other provision that allows DOT to develop safe pilot programs and waivers for individuals, companies, and industries. I would like these provisions modified and I remain hopeful that we can work out these issues.

With that caveat I believe that the Commerce Committee has under the leadership of Senator MCCAIN, given us an ISTEA amendment that we all can support and I commend it to the Senate.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I thank the Chair.

Mr. President, let me just express my appreciation to the distinguished chairman of the committee for the leadership which he has provided us and for the bipartisan approach he has taken in crafting the amendment which is before us. I would like to associate myself with his comments and observations with respect to the so-called ''industry exceptions'' in airbag provisions.

There are generic provisions that provide for pilot projects which I think is appropriate. And, as the Senator has pointed out, a commitment was made during the markup to try to work out some of the concerns that have been voiced by some of our colleagues who want these wider exceptions in airbags. Unfortunately, as the Senator from Arizona has pointed out, we have not yet reached an agreement on those areas. But I want to work with him, and I pledge my support in trying to fashion a compromise that does not emasculate the safety provisions and give blanket exceptions and waivers under the provisions of the amendment which is currently part of the amendment which has been proffered.

Let me also acknowledge and compliment the chairman on his leadership in bringing those of us together who have worked for many years on the airbag legislation. That legislation has its genesis in the 1991 ISTEA markup, at which time the senior Senator from Washington and I worked to incorporate those airbag provisions into the legislation. We recognize, as do all Members, that the unexpected infant fatality count as a result of by and large the inappropriate placement of infant seats has caused the problem that we want to respond to. I believe, under Senator MCCAIN's leadership, he brought a group of us together, and through several sessions we have worked out a compromise that is part of this legislation. I am pleased to endorse it.

So I look forward to working with the distinguished Senator from Arizona as we process this part of the highway legislation.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent the amendment be considered as original text for the purposes of amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I thank the Chair.

Mr. President, I ask unanimous consent to speak as if in morning business for approximately 7 minutes. It is relevant to the bill but not to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized to speak as if in morning business for up to 10 minutes.

Mr. BRYAN. I thank the Chair.

Mr. President, I want to preface my remarks by thanking the leadership on both sides of the political aisle, the able and distinguished chairman, Senator CHAFEE, as well as the able and distinguished ranking member, Senator BAUCUS, for an agreement which has put an additional $26 billion in terms of contract authority into this legislation that we are processing. This is no inconsiderable accomplishment. I recognize that leadership effort lasted for a number of months. It involved Senators PHIL GRAMM, Senator BYRD, and others. But this is a very important thing. It is bipartisan. I am pleased to support that effort.

There are many Federal programs that provide important services to the States. But, as a former Governor, I can tell you that there is no Federal program that is more important than the highway program.

In addition, the funding mechanism for Federal transportation funding—the gas tax—creates an even great and moral and ethical obligation for us to do our work, and to provide a long-term reauthorization of ISTEA.

The mechanism that my colleague has chosen in putting this compromise together; namely, using the highway component of the additional 4.3 cent gas tax to provide this additional contract authority, I think is particularly appropriate and very sound and a sensible means to provide that enhanced contract authority.

Although Nevada is still small by the national standard, in the last decade we have experienced the most rapid growth rate of any State in the Nation.

Although there are still plenty of sparsely populated, wide-open spaces, we have also become the most heavily urbanized State. While in many respects this tremendous growth has been a positive development, the growth has brought with it a host of infrastructure demands that we are currently struggling to meet.

Perhaps the greatest current need in Nevada is highway improvements. Our limited interstate system and other Federal highways were largely designed in the 1950s and early 1960s when Nevada was a far different place than it is today. Despite a tremendous effort by State and local governments over the past decade, nearly every one of the major arteries is currently operating far beyond its capacity, and there is no end in sight to the increased demand.

We need more capacity on our highways, and the Federal Highway Program is a major partner in that effort. The highway needs of Nevada are even more acute when viewed in the context of our State's heavy dependency upon our largest industry, which is tourism.

Despite our increased reliance on air travel, highways, particularly roads that connect us to our major markets in California, are the key to Nevada's commerce. Some of these major arteries, particularly I–15, Las Vegas' major connection to southern California, operate so far beyond capacity that they threaten to become an impediment to Nevada's incredible economic success story.

In fact, one of the most important demonstration projects the Nevada delegation is pressing for in the pending

legislation is a project outside our borders, and that is the widening of Interstate 15 in California from Barstow to Victorville. The passage of this ISTEA legislation is imperative, and sooner better than later.

As we will recall, in the 1991 reauthorization we were successful in including funding for the ''Spaghetti Bowl,'' the most congested part of the downtown access in Las Vegas. Nearly 6 years later, the ground breaking for that project occurred late this last fall. That is an indicator of the time lag that it takes for us to get projects authorized and funded to contract and to construction. This time around, Nevada's highway needs are even greater than in 1991, and the projects we need to fund in the coming years dwarf the ''Spaghetti Bowl'' project which previously had been the largest highway project in our State's history.

Throughout the State, in both northern and southern Nevada, many large and vital highway projects will need to be financed, and financed soon, and the Federal Government through the ISTEA formula is going to be an essential partner.

In southern Nevada, the State plans to expand the major artery to the rapidly growing northwest sector of Clark County by greatly expanding the capacity of US–95. In northern Nevada, we need to complete the long-awaited connection between Reno and the State capital in Carson City along US–395, and Carson City itself needs a freeway bypass around the capital and commercial areas. We need money to build a new, safer bridge over the Colorado River, taking existing hazardous traffic off the Boulder Dam.

Highways and roads are not the only transportation solutions in the works in Nevada. To an extent which would have been unthinkable only a few short years ago, we are becoming increasingly dependent on mass transit. Both of our major metropolitan areas, Las Vegas and Reno, have significant public bus and paratransit systems which make a major contribution to both mobility and air quality in their respective communities.

The Citizen Area Transit system, or CAT, in southern Nevada, in particular, has been an incredible success story in only a few short years of operation, and it is currently planning on more than doubling its bus fleet in the next several years to more than 500 vehicles. CAT is also well along in the planning process for a major fixed guideway system serving the heavily traveled resort corridor.

Both the bus fleet expansions and the fixed guideway system are counting on their fair share of Federal transportation dollars, something that will simply not be there any time soon if we do not finish our work on ISTEA as quickly as possible.

The State of Nevada and the assorted local governments have all stepped up to the plate. We heard frequently in this partnership with the Federal and State and local governments that local governments must do their fair share. In Nevada, State and local governments have done their fair share. They have imposed some of the highest highway taxes in the Nation upon our residents to provide for those additional improvements which I have alluded to.

What we are currently lacking is a solid, long-term commitment from the Federal Government as part of the Federal Government's requirement to live up to its partnership responsibilities. In fact, the Federal highway and transit programs are just that, they are bargains, commitments made with the American people.

Unfortunately, in what has been a long source of frustration to me, first as a Governor and now as a U.S. Senator, the Federal Government has not lived up to its side of the bargain. Every time any one of us buys a gallon of gasoline, we pay 18.4 cents to the Federal Government, money that is supposed to be set aside and dedicated and spent for highway and transit improvements. As we all know, this is often not the case. Somehow, a good part of this funding never makes it back to the States for highway improvements.

The trust fund balance now stands at more than $20 billion. By the year 2003, the balance of the trust fund could exceed $70 billion, all of which has essentially been taken from the American people under false pretenses; that is, the money is collected for highway improvements but not fully allocated for that purpose. I am hopeful with the compromise that has been effected that we will work to address what I believe is a failure of Federal responsibility.

The time is right for us to increase transportation funding to levels that more accurately reflect the payments taxpayers have been making to the trust fund and to get to work on some of the very transportation and infrastructure problems facing our State and our Nation. Nothing can happen, of course, unless we complete ISTEA soon, and that is why I believe that it is one of the most important priorities for us to deal with in this session of the Congress.

Again, Mr. President, I thank my colleagues who have worked out the compromise that has increased the contract authority by some $26 billion. That is something that every State will benefit from, and a State such as my own with a backlog of infrastructure needs will need this additional funding in order to complete these projects.

WALLOP-BREAUX TRUST FUND

Mr. MCCAIN. Mr. President, the amendment to S. 1173 offered by me and Senator HOLLINGS, on behalf of the Commerce Committee, includes a subtitle relating to the Sport Fish Restoration and Recreational Boat Safety programs authorized and funded by several laws comprising the Federal Aid in Sport Fish Restoration Program. These laws include the Dingell-Johnson Act of 1950, the Wallop-Breaux Amendments of 1984, the Wetlands Restoration Act of 1990, and the Clean Vessel Act of 1992. These laws, and the provisions of subtitle F in the amendment that I am offering today, are admittedly under the jurisdiction not only of the Commerce Committee, but also the Committee on Environment and Public Works. However, for the sake of expediency in reauthorizing ISTEA, the provisions relating to the Dingell-Johnson/Wallop-Breaux program in the ISTEA bill are being considered through this amendment.

Mr. CHAFEE. I applaud my colleagues on the Commerce Committee, particularly the distinguished Chairman Senator MCCAIN, the ranking member Senator HOLLINGS, and Senators SNOWE and BREAUX for their hard work on these provisions. Although the subtitle regarding the Dingell-Johnson/Wallop-Breaux program is included in the amendment offered on behalf of the Commerce Committee, I would like to express my gratitude to my colleagues on that Committee for the opportunity to remain involved in the negotiations leading to the language in the subtitle, and for the recognition that jurisdiction for that subtitle remains within both Committees. Indeed, the Federal Aid in Sport Fish Restoration program, taken in its entirety, is primarily under the jurisdiction of the Environment and Public Works Committee.

Mr. MCCAIN. Our Committees have worked together on legislation relating to this program in the past, and on this particular amendment that we are offering today. Both the Committee on Environment and Public Works and the Committee on Commerce each maintain jurisdiction over different components of this program. Both the U.S. Fish and Wildlife Service and the U.S. Coast Guard implement different components of the program. The Aquatic Resources Trust Fund, which is the funding source for the Program, is divided into the Sport Fish Restoration Account and the Boat Safety Account, which are closely intertwined with each other. For example, funds for boat safety programs come not only from the Boat Safety Account but also from the Sport Fish Restoration Account. In addition, unexpended funds in the Boat Safety Account roll over into the Sport Fish Restoration Account. This complicated flow of funds makes the programs almost inseparable. It is my opinion that while each Committee maintains jurisdiction over different components of the program, both Committees should work closely and collaboratively on legislation relating to this program.

Mr. CHAFEE. I wholeheartedly agree with the distinguished Chairman of the Committee on Commerce.

Mr. MCCAIN. In engaging in this colloquy, Senator CHAFEE and I recognize that each committee maintains jurisdiction over different components of this program and different provisions relating to the program contained in

subtitle F, and further reaffirm our joint commitment, responsibility, and jurisdiction regarding the Dingell-Johnson/Wallop-Breaux program. I thank the distinguished Senator from Rhode Island for his cooperation on this matter.

Ms. SNOWE. Mr. President, I rise in support of the Commerce Committee Safety amendment, and wish to commend the Senator from Arizona, Mr. MCCAIN, for his efforts to bring this amendment to the floor. In particular, I commend him and the Committee for its incentive approach to the serious problem of drunk driving. The Committee amendment provides four grants that provide additional funding to states that take the zero tolerance approach to drunk driving. States that have already enacted tough laws, like my own State of Maine, are eligible for additional funding, while these grant programs will serve as an incentive for other states to pass the tough laws necessary to keep drunk drivers off the roads.

I would also like to briefing explain my provision in this amendment that requires Maine and the Department of Transportation to create a performance based system to evaluate a state trucking law to determine if it is a safety concern.

Maine has lost half of its Motor Carrier Safety Assistance Programs (MCSAP) for the last two years—$145,000 per year—because of a state law providing an exemption from motor carrier safety regulations for trucks traveling within 100 air mile radius of their home base. This loss of funding means that the State cannot hire more state troopers for the Motor Vehicle Enforcement Unit and in fact may have to lay off another trooper if this issue is not resolved soon.

The Maine law in question is used primarily by construction companies, farmers, loggers, sand and gravel, landscaping and local delivery vehicles. In another words, small businesses who do intrastate delivery work or must travel some distance to a work site. Maine did a study for Federal Highway to show that the exemption was not a safety problem, but Federal Highway would not give the state a waiver. The State's study, done by the Maine State Police found no safety problems. And in 1995, the Governor's Task Force on Motor Vehicle Safety, which reviewed Maine's truck laws, recommended that this exemption be kept because it did not have an impact on safety.

My language seeks to end this impasse in order to improve safety by first giving the state its full funding so it can hire more troopers and second to evaluate whether or not the exemption is a safety problem. The language requires the State and the Department to work together to establish a review system for the State to carry out to determine, based on empirical evidence, whether or not this exemption has a negative impact on safety.

The burden will be on Maine to show whether or not there are safety implications to this particular state law. I am confident that this cooperative effort will reassure the Department while at the same time allowing Maine to improve safety on our roadways.

Thank you.

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

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

AMENDMENT NO. 1681 TO AMENDMENT NO. 1676

(Purpose: To improve airbag safety)

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

The PRESIDING OFFICER. Without objection, the pending amendment will be laid aside. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. KEMPTHORNE] proposes an amendment numbered 1681 to Amendment No. 1676.

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

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

The amendment is as follows:

On page 40, after line 10, insert the following:

SEC. 3106. IMPROVING AIR BAG SAFETY.

(a) SUSPENSION OF UNBELTED BARRIER TESTING.—The provision in Federal Motor Vehicle Safety Standard No. 208, Occupant crash protection, 49 CFR 571.208, that requires air bag-equipped vehicles to be crashed into a barrier using unbelted 50th percentile adult male dummies is suspended until either the rule issued under subsection (b) goes into effect or, prior to the effective date of the rule, the Secretary of Transportation, after reporting to the Commerce Committee of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate, determines by rule that restoring the test is necessary to accomplish the purposes of subsection (b).

(b) RULEMAKING TO IMPROVE AIR BAGS.—

(1) NOTICE OF PROPOSED RULEMAKING.—Not later than June 1, 1998, the Secretary of Transportation shall issue a notice of proposed rulemaking to improve the occupant protection for all occupants provided by Federal Motor Vehicle Safety Standard No. 208, while minimizing the risk to infants, children, and other occupants from injuries and deaths caused by air bags, by means that include advanced air bags.

(2) 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 paragraph (1). If the Secretary determines that the final rule cannot be completed by that date to meet the purposes of paragraph (1), and advises the Congress of the reasons for this determination, the Secretary may extend the date for issuing the final rule by not more than one year. The Congress may, by joint resolution, grant a further extension of the date for issuing a final rule.

(3) METHODS TO ENSURE PROTECTION.—Notwithstanding subsection (a) of this section, the rule required by paragraph (2) may include such tests, including tests with dummies of different sizes, as the Secretary determines to be reasonable, practicable, and appropriate to meet the purposes of paragraph (1).

(4) EFFECTIVE DATE.—The final rule issued under this subsection shall become effective in phases as rapidly as practicable, beginning not earlier than September 1, 2001, and not later than September 1, 2002, and shall become effective not later than September 1, 2005, for all motor vehicles in which air bags are required to be installed. If the Secretary determines that the September 1, 2005, effective date is not practicable to meet the purposes of paragraph (1), the Secretary may extend the effective date for not more than one year. The Congress may, by joint resolution, grant a further extension of the effective date.

(c) REPORT ON AIR BAG IMPROVEMENTS.—Not later than 6 months after the enactment of this section, the Secretary of Transportation shall report to Congress on the development of technology to improve the protection given by air bags and reduce the risks from air bags. To the extent possible, the report shall describe the performance characteristics of advanced air bag devices, their estimated cost, their estimated benefits, and the time within which they could be installed in production vehicles.

On page 167, after the matter appearing after line 18, insert the following:

Strike section 1407 of the bill.

In the table of sections for the bill, strike the item relating to section 1407.

Amend the table of sections for the bill by inserting the following item at the appropriate place:

Sec. 3406. Improving air bag safety.

Mr. KEMPTHORNE. Mr. President, this amendment deals with the airbag issue. Before I describe this amendment, I want to commend and thank Senator MCCAIN, the chairman of the Commerce Committee, for all of his tremendous help and leadership and assistance on this issue of airbag safety, as well as Senator BRYAN of Nevada who has had a keen interest in this for a number of years also. I appreciate the comments Senator MCCAIN made a few moments ago about my involvement in this issue of airbag safety.

This amendment does a variety of things, but one of the things that is very important is that it affirms that airbags are to be supplemental restraint systems, which is stamped on all the cars, ''SRS,'' supplemental restraint systems. They are not the primary restraint system, which is your seatbelt. I think whatever source you may look to, you will find that the seatbelt is the safest device that you can use in your car.

With the airbags that have been placed in cars, we now see on the new cars it points out that this airbag may kill children. The tragedy is that, in fact, it has killed children. The numbers that just came out have indicated that 54 kids now have been killed by airbags, 36 drivers have been killed by airbags and four adult passengers, for a total of 94 individuals who have been killed by these airbags.

I am one who believes that airbags certainly can be a good safety device when they are designed to standards

that place them in their intended role as supplemental safety devices. This allows us now, and I will not go into the details because Senator MCCAIN has laid that out very well, but this now allows us to go through with the Secretary of Transportation the rulemaking and the testing. It allows us to have a testing of these airbags for all sizes of adults. It is going to allow us to now have safer bags that will save lives so that we will not see these costly tragic numbers that I have just recited, and it will protect occupants of all sizes.

I do believe that the National Highway Traffic Safety Administration, NHTSA, has had the authority to go forward with this. Their repeated conclusion is that they did not.

Mr. President, recognizing that Senator MCCAIN is the chairman of the Senate Commerce Committee with jurisdiction over issues related to traffic safety, is he aware that the National Highway Traffic Safety Administration says current law does not allow airbags to be regulated as supplemental restraint systems, and specifically that NHTSA does not have the legal authority to repeal the so called unbelted test standard?

As the Senator knows, the American Law Division of the Library of Congress has reviewed this issue and has concluded that NHTSA has ample legal authority to repeal the unbelted test. The view of the Library of Congress is supported by a number of other legal experts as well.

Mr. MCCAIN. I agree that NHTSA currently has the statutory authority to modify the testing methodology for airbags to advance their safety or efficiency.

Mr. KEMPTHORNE. Is it the Senator's view that this amendment is consistent with the statutory interpretation that airbags are supplemental restraint systems, not primary restraint systems, and should be regulated in such a fashion and do you agree that airbags do not substitute for lap and shoulder belts and that all occupants should always wear safety belts regardless of whether there is an inflatable restraint in the vehicle?

Mr. MCCAIN. The Senator raises an important point. Airbags are an important safety device, but they are designed to supplement the protection offered by safety belts. Safety belts are the primary safety device and should be worn by all vehicle occupants.

Mr. KEMPTHORNE. Does the Senator agree that the pending amendment affirms the responsibility of the Secretary of Transportation to improve the occupant safety of all occupants provided by Federal Motor Vehicle Standard No. 208 while minimizing the risk to infants, children, and other occupants from injuries and death caused by airbags and, in order to accomplish the rule making required by this amendment, the Secretary shall include tests with dummies of different sizes representing the full range of occupants from infants to adults? The amendment only allows the Secretary of Transportation to reimpose the current safety standard after giving full advance notice to Congress, after giving the public time and opportunity to comment and then only if he or she concludes that doing so would protect infants and children, as well as other occupants, from death and injury. This amendment does not change the policy that airbags are still a supplemental, not a primary restraint system.

Mr. MCCAIN. Airbags are certainly not a substitute for safety belts. I want to emphasize again that all vehicle occupants should always wear a safety belt.

Mr. KEMPTHORNE. Thank you. I ask unanimous consent to have printed in the RECORD two legal opinions that make clear NHTSA had and retains the legal authority to repeal or modify the unbelted seat belt standard.

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

MAYER, BROWN & PLATT,
Washington, DC, January 22, 1997.

MEMORANDUM

To: Phillip D. Brady.
From: Erika Z. Jones.
Re NHTSA's authority to repeal or suspend the unbelted test in FMVSS 208.

You asked for a legal analysis of the question of whether NHTSA could lawfully repeal or suspend the current requirement in Federal Motor Vehicle Safety Standard 208 requiring manufacturers to certify compliance in both the belted and unbelted conditions. We conclude that there are no legal constraints on NHTSA's authority to do so.

BACKGROUND

FMVSS 208 (49 C.F.R. Section 571.208) specifies performance standards for occupant protection in crashes. Among its requirements, FMVSS 208 currently requires manufacturers to certify compliance with the performance standards in two conditions: first, with the crash test dummy belted with the manual three-point safety belt, and second, with the dummy unbelted. See S10(b)(1) of FMVSS 208.

In 1991, Congress enacted the Intermodal Surface Transportation Efficiency Act (ISTEA) (Pub. L. 102–240). Part B of the ISTEA, cited as the National Highway Traffic Safety Administration Authorization Act of 1991, included Section 2508 which mandated that the Secretary of Transportation shall amend FMVSS 208 to provide that "the automatic occupant crash protection system" of each new passenger car and light truck "shall be an inflatable restraint complying with the occupant protection requirements under section 4.1.2.1" of FMVSS 208. The section continued that it "supplements and revises, but does not replace, Federal Motor Vehicle Safety Standard 208, including the amendment to such Standard 208 of March 26, 1991 [citation omitted] extending the requirements for automatic crash protection . . . to trucks, buses and multipurpose passenger vehicles."

In 1994, Congress enacted Public Law 103–272 on July 5, 1994. Section 1 of that Act explained that general and permanent "laws related to transportation . . . are revised, codified, and eanacted . . . without substantive change." Thus, the codification Act transferred the provisions of the former National Traffic and Motor Vehicle Safety Act from Title 15 to Title 49. In the process of the codification, most provisions of the Act were restated, with some omitted as unnecessary or amended for clarity, although none of the omissions or amendments was intended to introduce substantive change.

The air bag mandate in the ISTEA found itself codified at 49 U.S.C. §30127, "Automatic Occupant Crash Protection and Seat Belt Use." The codified language reads as follows:

"(b) Inflatable restraint requirements.—(1) . . . The amendment shall require that the automatic occupant crash protection system for both of the front outboard seating positions for [passenger cars and light trucks] be an inflatable restraint (with lap and shoulder belts) complying with the occupant protection requirements under section 4.1.2.1 of Standard 208."

The codification also retains most of the statement of intent that originally appeared as part of the air bag mandate. The original statement of intent asserted that "[t]his section supplements and revises, but does not replace, Federal Motor Vehicle Safety Standard 208 . . .". In the codification, however, the new placement of this provision is in §30127(f), now stating that "[t]his section revises, but does not replace, Standard 208 as in effect on December 18, 1991, . . .". The reference to "supplement[ing]" FMVSS 208 was omitted in the codification, apparently due to a view that it was unnecessary.

In addition, the codification did not substantively change the ISTEA provisions that instructed NHTSA to amend FMVSS 208 to require that each owners' manual explain that "the 'air bag' is a supplemental restraint and is not a substitute for lap and shoulder belts" and that "occupants should always wear their lap and shoulder belts, if available, or other safety belts, whether or not there is an inflatable restraint." §30127(c)(2) and (4).

The evidence suggests that the requirement for FMVSS 208 certification in the unbelted condition is dictating air bag inflation output that is greater than would be necessary if the unbelted certification test were eliminated or suspended. NHTSA has recently acknowledged that the substantial inflation output of current air bags designs can pose risks to some front seat occupants, particularly children and small statured adults. For example, NHTSA's recent rulemaking notices extending the air bag cutoff switch option in certain vehicles, proposing to permit depowering of air bags and proposing to authorize disconnection of air bags by dealers all contain substantial discussions of the "adverse effects of current air bag designs." See 62 Fed. Reg. 798–844 (January 6, 1997).

In its original incarnation, FMVSS 208 was intended primarily to protect unbelted adult occupants, because safety belt use was very low. In 1984, when FMVSS 208 was reinstated, NHTSA observed that driver safety belt use in the front seat was approximately 14% nationwide. Today, however, adult safety belt use in the front seat is estimated to be close to 70%, due in large measure to the success of state safety belt usage laws, all of which were enacted within the last thirteen years. Today, all states but one require safety belt usage by vehicle occupants, and these requirements, coupled with seat belt usage education efforts, have been successful in raising safety belt usage to levels far in excess of those contemplated in 1984.

Of at least equal significance, there is no sign that Congress considered any evidence of the risks to children and small adult front seat occupants from air bags designed to meet the requirements of FMVSS 208 when the ISTEA was enacted in 1991.

* * * * *

NHTSA has now concluded that the ISTEA air bag mandate, as codified in Title 49, requires the agency to retain the unbelted compliance test because its repeal would eviscerate the requirement for ''automatic occupant crash protection system[s].'' In a letter dated January 13, 1997 to Senator Dirk Kempthorne, NHTSA Administrator Martinez explained the agency's reasoning as follows:

''If the unbelted test were eliminated from FMVSS No. 208, such that vehicles only had to satisfy the performance requirements of the standard with the manual belts attached, there would be no way to ensure that the air bags would in fact provide ''automatic'' protection to front seat occupants.''

NHTSA thus advised Senator Kempthorne that it ''lack[s] legal authority to eliminate the unbelted test''.

For reasons discussed in more detail below, we do not concur that NHTSA is so constrained in its authority to interpret the statute and the standard. In particular, NHTSA retains authority to interpret the statute and the standard in a manner that achieves the safety objectives of FMVSS 208 and the ISTEA mandate for an automatic crash protection system—which is an air bag as a supplemental restraint.

ANALYSIS

General principles of administrative law recognize that regulatory agencies ''must be given ample latitude to adapt their rules and policies to the demands of changing circumstances,'' as long as the changed policy is accompanied by a ''reasoned analysis for the change.'' *Motor Vehicle Manufacturers' Ass'n.* v. *State Farm*, 463 U.S. 29, 42 (1983) (internal quotations and citations omitted). Therefore, unless there is an explicit or implicit restriction in the Vehicle Safety Act, as amended by ISTEA, precluding NHTSA from responding to the newly acknowledged information about safety risks posed by current air bag designs, NHTSA retains ''ample latitude'' to amend FMVSS 208 to remove the unbelted test.

1. The Vehicle Safety Act Does Not Explicitly Preclude NHTSA From Repealing or Suspending the Unbelted Test

Nothing in 49 U.S.C. §30127 or in §2508 of ISTEA explicitly precludes NHTSA from repealing or suspending the unbelted certification test in FMVSS 208.

First, nothing in ISTEA §2508 amends, restricts or otherwise affects NHTSA's plenary authority to amend safety standards, authority which is incorporated in the general rulemaking authority to ''prescribe'' motor vehicle safety standards in 49 U.S.C. Section 30111(a). In fact, the ISTEA language carefully states that the amendment ''supplements and revises, but does not replace'' FMVSS 208. And, as discussed above, administrative law principles recognize the authority agencies have to amend their rules to reflect changed circumstances. Absent an explicit Congressional direction limiting that plenary authority in the case of FMVSS 208, NHTSA retains its general authority to amend its safety standards.

Second, when Congress wishes to ''freeze'' a regulation in place, it knows how to do so. For example, Section 216(7) of the Clean Air Act (42 U.S.C. §7550(7)) ''froze'' the then-existing EPA definitions for certain terms for purposes of the emission standards established by that Act, in the following way:

The terms ''vehicle curb weight,'' ''gross vehicle weight rating'' (GVWR), ''light-duty truck'' (LDT), ''light-duty vehicle,'' and ''loaded vehicle weight'' (LVW) have the meaning provided in regulations promulgated by the Administrator and in effect as of November 15, 1990. The abbreviations in parentheses corresponding to any term referred to in this paragraph shall have the same meaning as the corresponding term. 42 U.S.C. §7550(7).

Since no such explicit restriction ''freezing'' the 1991 edition of FMVSS 208 in general, or S4.1.2.1 in particular, was incorporated into the ISTEA amendments, NHTSA is not precluded by statute from amending FMVSS 208, or interpreting it in such a way as to repeal or suspend the unbelted compliance test.

Althouth some may argue that the language is the codified Vehicle Safety Act referring to a revision to FMVSS 208 ''as in effect on December 18, 1991'' is tantamount to a ''freezing'' of the requirements of FMVSS 208 as stated on that date, such an argument cannot survive. First, the quoted language did not appear in the ISTEA itself. Since the codification expressly stated that it was not intended to introduce any substantive change, the inclusion of the December 18, 1991 effective date in the codification (but not the original enactment of ISTEA) cannot have any substantive meaning, and surely cannot convey an intent by Congress in 1991 or 1994 to ''freeze'' FMVSS 208 in the context of the December 18, 1991 provisions. Second, the quoted language does not appear in the substantive requirements for air bag installation, which appear in subsection (b) of Section 30127. Rather, the quoted reference to the December 18, 1991 version of FMVSS 208 appears in subsection (f) of that section, which states that the air bag mandate ''revises, but does not replace, Standard 208 as in effect on December 18, 1991.'' In that context, the citation to the December 18, 1991 version of Standard 208 is nothing more than a reference point, rather than a legislative desire to ''freeze'' the requirements. Finally, NHTSA has already compromised any theory that the December 1991 provisions of FMVSS 208 are legally ''frozen''; for example, NHTSA has already amended FMVSS 208 to allow air bag cutoff switches which clearly amended FMVSS 208 to allow air bag cutoff switches which clearly affect the ''automatic'' nature of the protection afforded by the air bag.

The ISTEA, as codified in Title 49, thus does not explicitly limit NHTSA's plenary authority to amend FMVSS 208 to respond to the concerns about air bag inflator output in general, or to repeal the unbelted test in particular.

2. The Vehicle Safety Act Does Not Implicitly Preclude NHTSA From Repealing or Suspending the Unbelted Test

For several reasons, there is no implicit constraint on NHTSA's authority to amend FMVSS 208, including S4.1.2.1 if necessary, to eliminate the requirement for certification with an unbelted test dummy.

First, as noted above, there was no express constraints included in ISTEA or the codified Vehicle Safety Act on NHTSA's authority to amend FMVSS 208 in any respect. As long as the proposed amendment otherwise satisfies the Vehicle Safety Act's criteria for rulemaking (objectively, practicability, safety necessity), nothing precludes NHTSA from promulgating such an amendment, particularly in light of Congress intent to consider air bags as supplemental restraints, as well as the more recent acknowledgement by the agency that current air bag designs may pose safety risks for some small front seat occupants.

Second, nothing precludes NHTSA from electing to test compliance with FMVSS 208 with a belted (as opposed to an unbelted) test dummy. In enacting ISTEA, Congress expressed a preference—indeed, a mandate—for an occupant protection system that included both an air bag and a ''lap/shoulder belt'', which NHTSA has interpreted to mean a manual, three-point seat belt. NHTSA has ample authority to revise FMVSS 208 to reflect supplemental occupant protection, and to decide to evaluate compliance in accordance with this Congressional preference, i.e., with air bags in combination with manual three-point seat belts. The literal language of the codified Vehicle Safety Act strongly supports this interpretation, noting that the automatic protection shall ''be in inflatable restraint (*with lap and shoulder belts*)'' (Emphasis supplied).

Third, even if NHTSA were not persuaded that it should interpret the ISTEA mandate to authorize (indeed, prefer) testing the air bag as a supplemental restraint in combination with lap/shoulder belts pursuant to the currently prescribed belted test, NHTSA has substantially overstated the concern (as expressed in the letter to Senator Kempthorne) that elimination of the unbelted test would mean that there would be ''no way to ensure that the air bags would in fact provide 'automatic' protection to front seat occupants. If NHTSA wished to assure that the air bag was providing some additional ''protection'' over and above the lap/shoulder belt, then the agency could modify the standard to evaluate in the belted test the incremental protection provided ''automatically'' (i.e., separately) by air bags. There is no legal reason why such a separate evaluation has to be an unbelted test measuring the same four injury criteria currently in force. For example, NHTSA could add to the belted test some injury criterion which likely could not be met in a vehicle without an air bag. NHTSA has not taken, and could not take, the position that it is without authority to change the injury criteria by which air bag performance is measured. Indeed, NHTSA is proposing elsewhere to do exactly that—revise the injury criteria for thorax acceleration—although that is being proposed for other reasons.

While it is true that NHTSA could not, consistent with the ISTEA mandate, amend FMVSS 208 in such a way as to eviscerate the air bag mandate entirely, an amendment of FMVSS 208 to eliminate the unbelted test would not be such a radical change to the standard. Indeed, there is nothing in ISTEA to suggest that Congress subscribed to the original FMVSS 208 notion that the occupant protection afforded by air bags should necessarily be evaluated without manual safety belts. The Congressional mandate that lap/shoulder belts (interpreted by NHTSA to mean manual three-point safety belts) be provided along with air bags—a substantial enlargement of the original requirements of FMVSS 208, which would have protected *unbelted* occupants—along with the mandate for owner's manual revisions regarding air bags as supplemental restraints, all suggest instead that Congress understood the modern view that air bags are supplemental, not primary, occupant protection and must be used along with manual safety belts for optimal protection. Given that Congress directed this substantial revision to FMVSS 208 as part of the ISTEA amendment, it would be entirely reasonable for NHTSA to conclude that compliance with the new FMVSS 208 requirements should be evaluated with a belted, not an unbelted, test dummy.

3. NHTSA's Own Recent Rulemaking Actions Show That The Agency Retains Substantial Discretion to Amend FMVSS 208, Including With Respect to the Air Bag Mandate

NHTSA has recently adopted an amendment to FMVSS 208 extending the previously authorized cutoff switch to vehicles manufactured after the affective date of the ISTEA mandate for ''automatic'' protection. This amendment belies any proffered limitation on NHTSA's authority to change the nature of the ''automatic'' protection provided

under FMVSS 208. Indeed, if NHTSA could not lawfully eliminate the unbelted compliance test, because it would leave unevaluated the Congressional mandate that ''automatic'' protection be provided by means of ''inflatable restraints,'' then how could NHTSA permit cutoff switches, which permit the ''automatic'' protection to be eliminated altogether when the switch is activated?

In fact, NHTSA is not constrained by ISTEA or the codified Vehicle Safety Act from adopting an amendment that eliminates the unbelted compliance test, if the rulemaking record justifies doing so. NHTSA's amendment of FMVSS 208 to permit cutoff switches is an implicit acknowledgement of the agency's authority to revise FMVSS 208 to reflect contemporary developments in motor vehicle safety.

NHTSA's recent proposals to amend the test conditions of FMVSS 208 in other respects, such as by raising the thorax injury criterion to 80 G's, from the current level of 60 G's, further reflect the agency's acknowledgement of its plenary authority to revise FMVSS 208 to reflect modern understandings of motor vehicle safety needs.

* * * * *

Nothing in the ISTEA or the codified Vehicle Safety Act explicitly or implicitly constrains NHTSA's authority to repeal the unbelted compliance test for certification with FMVSS 208.

Although the statute indisputably requires ''automatic'' protection by means of ''inflatable restraints,'' NHTSA retains full authority to define what the protection criteria will be, and how the protection will be evaluated. Congress did not evidence any intention of constraining NHTSA's authority and responsibility to do so.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, January 31, 1997.

To: Honorable Dirk Kempthorne; Attention: Gary Smith.

From: American Law Division.

Subject: Whether the Administrator of the National Highway Transportation Safety Board Has the Authority to Amend, Alter, Change or Otherwise Supplement the Test Procedures for Automatic Restraints Set Out in Paragraph S10(b)(1) of Federal Motor Vehicle Safety Standard 208 (49 C.F.R. §571.208, ¶ S10(b)(1)).

You are concerned that the current testing of vehicle airbags has led to a standard for airbag deployment which may in some situations actually imperil vehicle occupants, and would, therefore, like for the Administrator of the National Highway Transportation Safety Administration (NHTSA) to order tests to determine whether and to what extent airbag deployment pressure might be reduced. The Administrator has informed you that it is his belief that he is prohibited from doing so. Accordingly, you have asked that we review a memorandum prepared by the law firm, Mayer, Brown & Platt, which concludes that the Administrator does have the authority to amend the vehicle safety standard which sets forth the test dummy positioning procedures for crash-testing motor vehicles (Federal Motor Vehicle Safety Standard (FMVSS) 208 ¶ S10(b)(1), Occupant crash protection, 49 C.F.R. §571.208 ¶ S10(b)(1)). For the reasons discussed below, we conclude that there is ample evidence to support that conclusion; and further, that there may not be any need to amend the language of the referenced paragraph.

BACKGROUND

In 1966, Congress determined that it was necessary to ''establish motor vehicle safety standards'' in order to protect the public against ''unreasonable risk of accidents occurring as a result of the design, construction or performance of motor vehicles [or the] unreasonable risk of death or injury to persons in the event accidents do occur.'' The same Act required the Secretary of Transportation ''to establish by order appropriate Federal motor vehicle safety standards.'' and further authorized the Secretary ''by order [to] amend or revoke any Federal motor vehicle safety standard established under this section . . . [taking into consideration] relevant available motor vehicle safety data, including the results of research, development, testing and evaluation activities conducted pursuant to this Act.''

In response, the Secretary, through the Administrator of NHTSA, promulgated Part 571 of 49 C.F.R., ''Federal Motor Vehicle Safety Standards,'' which include FMVSS 208, Occupant crash protection. The stated purpose for promulgating the Standard was ''to reduce the number of deaths of vehicle occupants, and the severity of injuries . . .''

In the ''National Highway Traffic Safety Administration Authorization Act of 1991,'' Congress directed the Secretary of Transportation ''to promulgate, in accordance with the National Traffic and Motor Vehicle Safety Act of 1966 . . . an amendment to [FMVSS] 208 to provide that the automatic crash protection system for the front outboard designated positions of [certain described vehicles] . . . shall be an inflatable restraint [i.e., an airbag]. . . .''

The same section states that it ''revises, but does not replace [FMVSS] 208,'' merely extending the ''automatic crash protection'' requirement to ''trucks, buses, and multipurpose vehicles.''

FMVSS 208 ¶ S10(b)(1), which sets forth the way in which ''automatic restraints'' are to be tested, states that ''In a vehicle equipped with an automatic restraint at each front outbound seating position . . . each test dummy is not restrained during one frontal test . . . by an means that require occupant action. If the vehicle has a manual seat belt provided by the manufacturer . . . then a second front test is conducted . . . and each test dummy is restrained both by the automatic restraint system and the manual seat belt . . .''

DISCUSSION

As the Mayer, Brown memorandum correctly states, ''[g]eneral principal of administrative law recognize that administrative agencies 'must be given ample latitude to adapt their rules and policies to the demands of changing circumstances,' as long as the changed policy is accompanied by a 'reasoned analysis for the change.'''[11] Only in the case of a mandate in which Congress has specified some or all of the specifies to be included in any Agency's promulgations would an Agency be precluded from altering or amending those specifics; the statute which first required that motor vehicle safety standards be enacted contained only the directive to the Secretary of Transportation that he promulgate ''appropriate Federal motor vehicle safety standards,'' and further gave the Secretary the authority to ''by order amend or revoke any Federal motor vehicle safety standard established under this section.'' Accordingly, it would appear that the Administrator of NHTSA not only has the authority to amend his own agency's safety standards, but may be expected to do so when he is in possession of ''relevant available motor vehicle safety data.''

That the provision which requires airbags does not envision that ''automatic crash protection'' is to be construed as ''protection afforded in the absence of a seat belt'' is illustrated by the future requirement that

''the owner manuals for passenger cars and trucks, buses, and multipurpose vehicles equipped with an inflatable restraint include a statement in an easily understandable format that

''(1) either or both of the front outboard seating positions . . . are equipped with an inflatable restraint referred to as an 'airbag' and a lap and shoulder belt;

''(2) the airbag is a supplemental restraint;

''(3) lap and shoulder belt also must be used correctly . . . to provide restraint or protection. . . .''

The only statutory reference to ''automatic'' that our research has uncovered appears in the Conference Report that accompanied ISTEA: ''the Senate notes that the current regulations of the Department of Transportation . . . require that passenger cars be equipped with 'passive restraints,' which include either airbags or automatic seatbelts that do not require actions by the occupant in order to be engaged'' (House Conf. Rep. No. 102–404 at 400). In other words, it appears that the statute which requires the installation of airbags as automatic, or passive, restraints neither envisions nor requires (because airbags are considered as ''supplemental'' restraints to be used in conjunction with seatbelts) that they must be tested in unbelted conditions.

Finally, we note the improbability, given the languages set out above to emphasize that airbags are to be considered only as a ''supplemental'' restraint, that FMVSS 208 ¶ S10(b)(1) requires that crash tests to evaluate airbag deployment pressure be conducted on completely unbelted test dummies in order to determine the pressure at which protection from frontal impact crashes would be available.

JANICE E. RUBIN,
Legislative Attorney

Mr. KEMPTHORNE. Mr. President, without going back and reciting all of the past history, this is an amendment that, through a collaborative process, will now bring us to the point of safer air bags.

A little girl who was killed in Boise, ID, was the reason for my involvement in this whole issue. So I hope that the family will find some consolation, some peace, in knowing that the loss of that precious little child will now lead us to a new era of safer air bags so that other families will not have to experience the tragedy that they have.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1681) was agreed to.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I personally am in support of the amendment of the Senator from Idaho. I think it is a good amendment. And he has moved his amendment, hasn't he?

The PRESIDING OFFICER. The amendment has been agreed to.

Mr. CHAFEE. Well, put me down as in favor of it.

I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. 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. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded and that I may speak for up to 10 minutes.

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

Mr. WYDEN. Thank you very much, Mr. President.

Mr. President, the amendment that was agreed to by the Environment Committee with respect to funding for these critical transportation programs for our country really ought to be called the ''Truth In Transportation Funding Act'' because it ensures that gasoline taxes collected for transportation purposes will actually be spent on those critical transportation projects.

For too long in America, the Congress has played a budgetary shell game—pretending to put funds away in various transportation programs but actually slipping those funds into other spending accounts.

Mr. President and colleagues, this con game has been closed down. Now Congress is on the way to making the highway trust fund sacrosanct again. Transportation taxes will, indeed, pay for transportation services. This means that the dollars will be used on the ground where they are needed, not squirreled away in some account that never seems to be spent.

Today, the Congress will be in a position to bring much-needed relief to citizens who face transportation gridlock across our country. The Congress is adding an additional $26 billion of transportation spending to what is now in the Senate ISTEA II bill. This translates for our State into an additional $40 million per year.

In our State, transportation dollars are now stretched so thin that the State department of transportation is not developing new projects. We have focused our efforts on merely maintaining existing roads because we did not have funding available to pay for improvements. Until now, there was little hope on the horizon that more funding would be forthcoming.

The Environment Committee's amendment is like emergency surgery for Oregon's clogged transportation arteries. If Congress now passes this bill, it will be possible to think in terms of improving the health of our transportation system instead of how to avoid further deterioration. We will be in a position to plan improvements to reduce congestion in an already overtaxed system. We can start to think about the future and how to handle our State's growing population, and many other parts of our country will be able to do the same.

Mr. President and colleagues, I have always believed that you cannot have big league quality of life with little league transportation systems. In the modern world, a transportation bill is about so much more than how you get from point A to point B. A strong infrastructure is one of the basic ingredients to any recipe for economic growth. It is one of the key things that our businesses look at as they consider where to locate and one of the principal contributors to our quality of life.

I support the Environment Committee's amendment, and I urge my colleagues to support the additional funding needed to build the transportation system our Nation will need to compete in the 21st century.

Let me conclude, Mr. President, by saying that I intend, in the days ahead, to take to this floor to discuss other parts of this important legislation. Our State has been a leader nationally in developing an innovative approach to managed growth in our country. This legislation allocates $20 million per year to reward those States and communities that have been willing to take fresh, creative approaches to handling growth.

I am also working, and there was discussion in the Environment Committee today, with Senator GRAHAM, Senator BOB SMITH, and others, on a way to streamline the process and ensure that the dollars that are allocated for transportation projects are spent in the most effective way. In the past, there has really been a disconnect between the way transportation dollars are allocated and the environmental permits that are associated with actually getting those projects built and on line. We have been working on a bipartisan basis to bring together environmental leaders, builders, and those who were involved in planning our roads, and we believe that we are on our way to coming up with a streamlined system that is going to make it possible for us to save dollars and ensure that the transportation projects are built expeditiously while we still comply with the critically needed environmental laws for our country. I intend, in the days ahead, to talk about those commendable features of this legislation as well.

I want to conclude by congratulating my friend, Senator BAUCUS, from Montana, and Senator CHAFEE for an extraordinary bit of work. This bill is heavy lifting. There are Senators with very strong views. There are regional differences of opinion. But I think we have been able to forge a piece of legislation that is going to make a difference in the 21st century.

I conclude my remarks by especially praising our chairman, who has entered the Chamber, JOHN CHAFEE, and Senator BAUCUS, the ranking minority member, because it is their work that has made it possible for us to come to the floor today.

Mr. President, I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I thank the senior Senator from Oregon for his kind comments. He has done yeoman's work on the Environment and Public Works Committee, not only in connection with this legislation, but with a whole series of environmental legislation. So having praise from him is doubly satisfying.

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.

Mr. CHAFEE. Now, Mr. President, we have the so-called Lautenberg amendment that we would like to take up. This is the amendment that deals with the alcohol content in blood. The amendment would lower the alcohol content, which is a test, for drunken driving, from .1 to .08.

Mr. President, we would like to enter into a time agreement on this. The time agreement would be something in the neighborhood of an hour and a half apiece. And now is the time for those Senators to come to the Chamber if, one, they object to this time agreement, and, two, the plan, further, would be that we would vote this evening. In other words, that would take us up to about 6:30, if all the time were used.

So I want to send the word out, we are about to enter into this agreement. I trust offices are listening to what we are saying here and will come on over or call the cloakroom with their views because we want to move on.

We have legislation we have to make progress on. We have been on this floor for some time but now we are ready for this particular amendment, the drinking amendment, which most people are familiar with.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. If I might ask my good friend, the chairman of the committee, Senator CHAFEE, wouldn't it also be a good idea for Senators who are interested in an amendment that might be offered by Senator MCCONNELL, with respect to the disadvantaged business enterprise, to also have their staffs come over to the floor so we can potentially begin to work on it, an agreement on that amendment? That is another amendment that is going to take some time. It is contentious. The more we start working on the provisions of the debate, the more quickly we can reach a time agreement. I guess that would be another subject we should address as well.

Mr. CHAFEE. Well, I certainly agree with the distinguished ranking member. Senator MCCONNELL has been very thoughtful. He has been on the floor. He is ready to go. We want to find out how many people want to speak on Senator MCCONNELL's amendment so we can get some concept of the time that should be set aside. But that is another amendment.

My thinking now is, if we can work out proceeding with the Lautenberg amendment, tomorrow morning we would take up the financing amendment that was agreed to in the committee today as a result of the agreement that was reached yesterday. There may be some debate on that. I do not know. But we are free to take that up tomorrow.

My hope is we would do that tomorrow morning. And then tomorrow afternoon we would go to the McConnell amendment. But the Senator from Kentucky legitimately wants to know how many people want to speak on his amendment. We want a time agreement. He wants a time agreement. I am for a time agreement, enthusiastically for a time agreement.

So, therefore, would individuals who want to speak on the McConnell amendment call up the cloakroom, let us know how long they think they need, and which side they will be on so we can figure that out. The same goes with the Lautenberg amendment.

Time is of the essence. We will reach an agreement pretty quickly on the Lautenberg amendment. Now is the time for people to call with their thoughts.

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. 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.

AMENDMENT NO. 1679

Mr. CHAFEE. Now, Mr. President, before the Senate we have the Wellstone amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. CHAFEE. Mr. President, I will talk a little bit about that. We have no time agreement, but I will be relatively brief, maybe 10 minutes. The Senator from Minnesota will be roughly how long?

Mr. WELLSTONE. Mr. President, I think I can probably try to keep my remarks about 20 minutes or so.

Mr. CHAFEE. Then we would like to go to a vote. At that time I will move to table. We will have a rollcall vote at that time, Mr. President.

Now, Mr. President, the amendment offered by the Senator from Minnesota would be timely if the Finance Committee were now considering a welfare bill. The matter before the Senate, the basic underlying bill, is a highway bill, financing for highways.

The amendment of the Senator from Minnesota deals with welfare and accounting for those welfare recipients who have gone off the rolls, how have they succeeded and what has become of them. That is all well and good. But that has nothing to do with highways.

Therefore, Mr. President, I have urged the Senator to attach it to a different bill or withdraw it. I tried to stress to him that what we want to do today is consider bills that deal with the subject before us; namely, highways, their funding, how to build them, and different ideas connected therewith.

If the Finance Committee were debating a welfare bill, the amendment would be germane. But we would also oppose it even under those conditions because it is costly and unnecessary.

Now, when Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996—that was only 18 months ago—one of the important features of that legislation was a commitment to find out whether the sweeping changes were effective in helping the families get off welfare dependency. What we had before us was a welfare bill. In it we had some provisions to ascertain, to do research on how the bill was working out. Congress appropriated about $44 million a year to conduct research on the benefits, the effects, the costs of the State programs that were funded under this new law. This new law was a radical departure from the way business had been done in the past. Furthermore, we were provided money to study the costs of the State programs funded under the new law and to evaluate innovative programs they might have.

Now, is the impact of welfare reform being studied? One of the points the Senator from Minnesota makes is that this is a subject worthy of study. Our point, Mr. President, is that it is being studied. HHS, Health and Human Services, has awarded grants to conduct rigorous evaluations of State programs including a 5-year comparative study of the Minnesota Work First Program. In the Senator's own State a study is taking place. There are also studies on child care and child welfare being conducted by organizations such as the Urban Institute of Columbia University and Harvard.

Now, under the Welfare Act, the Secretary of the Department of Health and Human Services is required to make an annual report to Congress on whether the States are increasing employment and earnings of needy families, and are they increasing child support? I think the child support was one of the points that the Senator mentioned. The report that is required from the Secretary of HHS, the annual report, has to include progress on decreasing out-of-wedlock pregnancies, how are we doing on child poverty, reducing that. It is to include demographic and financial characteristics of families applying for assistance, the families receiving assistance, and families that become ineligible for assistance. I know the Senator is particularly concerned about the effectiveness of employment programs. He mentioned that in his amendment.

The Welfare Act requires a specific study on moving families out of welfare through employment. That is already required. It requires an annual ranking of the States in terms of the most and the least successful work programs. The new $1 billion high-performance bonus program will reward States which are successful in increasing earnings for welfare families.

Beginning in 1999, just a year from now, the Secretary is required to conduct an annual report on a broader set of indicators, including whether or not children and families have health insurance, the average income of these families, and educational attainment of these families. Thanks to the efforts of Senator MOYNIHAN, Congress now receives an annual report. It is called Indicators of Welfare Dependence. It has a wealth of information. Mr. President, here is a copy of the report. This is no light-weight work. It is filled with graphs and percentages of children, age 0 to 5 in 1982, living in poverty by number of years in poverty; percentage of individuals living in poverty by numbers of years in poverty. On and on it goes. It has average monthly AFDC benefits by family and recipients in current and constant dollars. It is a very, very thorough report.

Now, my concern is that States have been developing and implementing data collection systems for more than a year now. For Congress to suddenly impose, as the Senator's amendment does, new requirements for more information to track all former welfare recipients is a major undertaking and something we should not enter into lightly. The impact on States is likely to be costly and burdensome.

The Senator's amendment is good news for computer and data processing vendors, but it is unlikely to mean anything, I suspect, for families and our efforts to combat welfare dependency. The amendment also calls for a report which may give an inaccurate picture about the lives of individuals who enter and leave the welfare system.

Now, the accent of the Senator's amendment is on employment. Employment is an important reason that families find economic self-sufficiently, no question, but it is not the only reason. Families leave welfare because child support is being collected for the first time. They will leave because their children will have health insurance and no longer need take a risk of having their children without health insurance if their earnings are increased.

Mr. President, these are the reasons that I find the amendment well meaning but unnecessary, particularly in view of the massive amount of reports that are already being required, one of which I briefly indicated.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. First of all, let me thank my colleague from Rhode Island for his graciousness. For those who might be watching this proceeding, my colleague could have just simply tabled this amendment. He didn't do that. He will eventually, but he has given me an

opportunity to respond to his arguments. I want him to know that I appreciate it.

Mr. President, I won't spend a lot of time on the question of this amendment on the ISTEA bill—which is essentially the highway bill for highways and, hopefully, more mass transit—because, as my colleagues know, Democrats and Republicans alike, we look for vehicles whereby we can come out and introduce amendments that really speak to what we think are some real concerns in the country. All of us do that all of the time. I am doing it now. I am not so sure there will be, I say to my colleague, a welfare bill that will be before the U.S. Senate any time soon. I introduce this amendment with some sense of urgency. I don't think there is any evidence whatever that we will have a welfare bill before the U.S. Senate. So if I am going to have an opportunity to make an appeal to my colleagues, now is the time to do so.

Second, I want to just make it clear what this amendment does and what it does not do. I am puzzled by the opposition, with all due respect to my colleague from Rhode Island. This amendment just simply says to the Secretary of Health and Human Services, please give us a report based upon—not your going out and collecting all sorts of other data—but based upon the data that is available to you.

My colleague just said that there will be some good data available. Most people that I know—I have a social science background—that have looked at this are saying you have a number of different people studying a number of different things and it is fragmented and does not focus on the main question I am asking. Exactly how many of the families are reaching economic self-sufficiency? This amendment just says to the Secretary of Health and Human Services, please pull together the data that is available, reports prepared by the Comptroller General, samples of the Bureau of Census, surveys funded by your own department, studies conducted by States, studies conducted by nongovernment organizations, and administrative data from other Federal agencies. Please bring that data together, coordinate that data and provide reports to us every 6 months as to exactly how many families are reaching economic self-sufficiency. The goal of that being to answer the question, Are these families now at 150 percent of poverty? Are they over poverty? What kind of jobs do they have? What kind of wages? Where are the children? Is child care available? How are people doing on transportation? Are they able to get to work? Have we had situations where people couldn't take jobs in rural areas because they couldn't get to the jobs? Have we had situations where people don't take jobs in the suburbs and metro areas because they couldn't get from ghettos to suburbs because of lack of transportation? That is all this amendment calls for. That is all this amendment calls for.

So I say to my colleagues that, in a way, I think those that oppose this amendment are trying to have it both ways. On the one hand, they are arguing that we have already collected all of this data. I think not, but if so, it's hardly an onerous requirement to say to the Secretary: Please assemble this data and give us a report every 6 months as to what is really happening out there in the country.

If the opposition to my amendment—which I have heard from some people on the other side—is, ''Wait a minute, you are going to be asking the Secretary for too much,'' I say eventually we are going to get to the point where there is going to have to be more of an investment. Because if the Secretary isn't going to be able to provide us with the data we need, with the report we need, based upon the data out there, then I say to you we will need more. That is all the more reason to go forward with this.

So I am puzzled by the opposition. ''We already have these studies that are providing us with the information we need,'' they say. So what is the harm in having the Secretary present reports to us every 6 months so we can have some reassurance that these mothers, these single parents, have now been able to obtain employment that they can support their family on, and the children aren't home alone, and first graders don't go home alone after school, and more children aren't impoverished? Why in the world, if we already have the studies out there, would we not want to ask the Secretary of Health and Human Services to provide us with this report?

If, on the other hand, the basis of the opposition is what I think it is—because I think this is the case—is that this is already being done, as a matter of fact what's being done is pretty fragmented. There is good work being done. Senator MOYNIHAN would be the first to say that we can do better, and that is what this amendment says. Let's ask the Secretary of Health and Human Services to take the additional studies that are out there—and my colleague talked about some of them—and provide us with the report. If she cannot really provide us with the information we need, then we will cross that bridge when we come to it. I am not mandating that she has to provide additional information. I am saying what would be helpful to us, asking her to please bring together the data that is out there, based on these reports, and give us a report on the current situation. That is what this amendment is all about.

Now, after having said that, I would make an appeal to my colleagues. I think on our side, I know Senator BAUCUS is going to support the amendment. On our side I think there is pretty strong support for this. I hope there will be support for this on the other side as well. I think the Senator from Rhode Island—we all have these great things to say about other people and half of it may be true—is a great Senator. I wanted to get his support. I am disappointed because I don't understand what the harm is in this amendment.

With all due respect, you can get into all this language that sounds kind of impersonal and kind of cold like, ''We already have studies, we don't need it,'' or ''It is going to require us to obtain additional information, which might cost more money,'' and ''Somebody is going to have to make the investment.''

Well, Mr. President, imagine just for a moment, just ponder this question: What if I'm right?

Maybe other Senators have traveled the country. I think I have done as much travel as any other Senator in this Chamber, at least in poor communities, low-income communities. I think I have tried to stay as close to this as any other Senator. I am telling you that in a whole lot of communities it is crystal clear that people live in communities where the jobs aren't there. And in a whole lot of situations—and you will have a lot of people from your States who will tell you the same thing—these women are obtaining jobs, but they hardly pay a living wage. And one year from now, or whatever, when they no longer receive medical assistance, their families are going to be worse off.

I am hearing from a lot of States, including my own State of Minnesota, which has a very low unemployment level and which is doing well economically. I am not here to bash States, but there are studies that raise a whole lot of questions, and there have been some articles that have raised a whole lot of questions about situations where some women haven't shown up for orientation sessions, and sometimes for good reason, and it's said that they don't necessarily want to work. There are communities that have incredibly long waiting lists. The city of Los Angeles had a waiting list of 30,000 for affordable child care before the welfare bill.

Now, look, if I am right about this, if I am right that what has happened—because all too often we know what we want to know and we don't know what we don't want to know—all too often, what is going on here is, we say there are 4 million fewer recipients, a 4 million reduction in the welfare rolls. The reform is a huge success, but that doesn't mean we have seen a reduction of poverty. I am just saying, should we not know what the situation is in the country? Should we not know what kind of jobs, what wages, the child care situation, and should we not know whether these families are better off or worse off? Should we not know all of that, especially since built into that legislation is a date certain whereby, depending on the State, families will be eliminated from all assistance, the assumption being that all these people are now working and can support themselves and their children. Is that assumption valid?

Now, why in the world, I say to my colleagues, would you oppose this amendment? Why would you oppose this amendment?

One final time. This amendment just asks the Secretary of Health and Human Services to please provide to us a report based on the existing studies with data that is out there, on what the situation is around the country, on how many of these families are reaching economic self-sufficiency. Are they out of poverty now? Are their children better off? That's what we want. Or are more families impoverished? Are the jobs just minimum wage? Is there a lack of child care? Is the transportation available or not? Why would we not want to know that?

You know, I didn't mention this earlier, Mr. President, but there is another amendment I will bring out here on the higher ed bill. I wonder if my colleagues know this. In all too many States, single parents who are in school and community colleges are now being told they have to leave college to take a job. Now, here are the parents that are on the path to economic self-sufficiency. They are in school. They are trying to complete their college education so they can get a good job and support their families. They are being told that, because of the welfare reform bill, they can't complete their education. Talk about something that is shortsighted and harsh, something that is myopic. Well, that is another story and another amendment later on.

But for now, please support this amendment. Please ask the Secretary of Health and Human Services to provide us with the data. Please, colleagues, at least let's have a focus on this, let's have the information before us, let's know what is going on, let's make sure that these women and children are doing better. That would make us more responsible policymakers.

Finally, I say to my colleague, if it doesn't pass—and I hope it will—this is an amendment on ISTEA, but I will come back with these amendments over and over again. Because it is my firm belief as a U.S. Senator that we can't turn our gaze away from this. These are citizens who are not the heavy hitters, these are citizens that are not the givers, these are citizens that do not have the lobbyists. These are, in the main, poor people—mainly women and children. I think it is important that we understand what is happening to them, and it is important that we have the right information, and it is important that we do our very best to be responsible policymakers and make sure that these families aren't worse off and that these children are not in harm's way. How in the world, colleagues, can you vote against the proposition that we ought to have as much information as possible before us so that we make sure these children are not endangered, so that we can make sure these families are better off?

I yield the floor.

Mr. CHAFEE. Mr. President, as I mentioned before, we are dealing with a highway bill here. This isn't the appropriate place for that. When we did the welfare bill, I was the one who included in the welfare bill data collection provisions. Should those data collection provisions be inadequate and need to be expanded along the lines the Senator has suggested, I would be glad to work with him and see if we could not include those by working with the Secretary of HHS. This, plainly, isn't the right place for this amendment.

If the Senator has nothing further, I move to table the amendment of the Senator from Minnesota and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Minnesota. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado (Mr. ALLARD) is necessarily absent.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN), the Senator from Hawaii (Mr. INOUYE), are necessarily absent.

The PRESIDING OFFICER (Mr. GORTON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 19 Leg.]

YEAS—54

Abraham	Gorton	McCain
Ashcroft	Gramm	McConnell
Bennett	Grams	Murkowski
Bond	Grassley	Nickles
Brownback	Gregg	Roberts
Burns	Hagel	Roth
Campbell	Hatch	Santorum
Chafee	Helms	Sessions
Cochran	Hutchinson	Shelby
Collins	Hutchison	Smith (NH)
Coverdell	Inhofe	Smith (OR)
Craig	Jeffords	Snowe
D'Amato	Kempthorne	Specter
DeWine	Kohl	Stevens
Domenici	Kyl	Thomas
Enzi	Lott	Thompson
Faircloth	Lugar	Thurmond
Frist	Mack	Warner

NAYS—43

Akaka	Durbin	Lieberman
Baucus	Feingold	Mikulski
Biden	Feinstein	Moseley-Braun
Bingaman	Ford	Moynihan
Boxer	Graham	Murray
Breaux	Harkin	Reed
Bryan	Hollings	Reid
Bumpers	Johnson	Robb
Byrd	Kennedy	Rockefeller
Cleland	Kerrey	Sarbanes
Coats	Kerry	Torricelli
Conrad	Landrieu	Wellstone
Daschle	Lautenberg	Wyden
Dodd	Leahy	
Dorgan	Levin	

NOT VOTING—3

Allard	Glenn	Inouye

The motion to lay on the table the amendment (No. 1679) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

The PRESIDING OFFICER. Without objection, the motion to lay on the table the motion to reconsider is agreed to.

Mr. CHAFEE. Mr. President, what we would like to do now is move to a Lautenberg amendment dealing with alcohol-blood content. The proposal is that there be 3 hours of debate equally divided.

UNANIMOUS CONSENT AGREEMENT

Mr. CHAFEE. Mr. President, I ask unanimous consent that Senator LAUTENBERG be recognized to offer an amendment on blood-alcohol content and that there be 3 hours for debate, equally divided, under the control of Senator LAUTENBERG and Senator CHAFEE. I further ask unanimous consent that there be 1 hour remaining, equally divided, for debate. In other words, do 2 hours tonight and 1 hour tomorrow. The leader has indicated that we are to come in at 9 a.m. and that the vote will be at 10 a.m.; at 10 a.m., the Senate proceed to vote on or in relation to the Lautenberg amendment. I further ask unanimous consent that no additional amendments be in order prior to the vote in relation to the Lautenberg amendment.

Mr. BAUCUS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Might I ask the chairman of the committee—and we are checking on this—if that 10 o'clock can be delayed until 10:30? There is a problem on our side with a vote at 10 o'clock.

Mr. CHAFEE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CHAFEE. Now, Mr. President, I modify the unanimous consent request, and as a matter of fact, I will just read it over again so everybody will understand it. I ask unanimous consent that Senator LAUTENBERG be recognized to offer an amendment regarding drinking levels, and there be 3 hours for debate, equally divided, and the time be under the control of Senator LAUTENBERG and Senator CHAFEE. I further ask unanimous consent that there be 1 hour, equally divided, for debate tomorrow morning—in other words, do 2 hours tonight and 1 hour tomorrow morning—that we come in at 9:30 a.m., and go straight to the remaining hour on the amendment, and at the hour of 10:30 a.m. the Senate proceed to vote on or in relation to the Lautenberg amendment. I further ask unanimous consent that no additional amendments be in order prior to the vote in relation to the Lautenberg amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, I thank the chairman for making that adjustment. I appreciate it very much.

The PRESIDING OFFICER. Without objection, the unanimous consent request is agreed to.

Mr. CHAFEE. Has that been agreed to, Mr. President?

The PRESIDING OFFICER. It has.

Mr. CHAFEE. Mr. President, the majority leader has informed me that there will be no further votes this evening. And so we will now start the debate on the Lautenberg amendment, with 2 hours.

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey is recognized.

AMENDMENT NO. 1682 TO AMENDMENT NO. 1676

(Purpose: To provide for a national standard to prohibit the operation of motor vehicles by intoxicated individuals)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. Lautenberg], for himself, Mr. DeWine, Mr. Lieberman, Mr. Faircloth, Mrs. Boxer, Mr. Helms, Mr. Glenn, Mr. Durbin, Mrs. Feinstein, Mr. Bingaman, Mr. Moynihan, Mr. Hatch, Mr. Wellstone, Mr. Akaka, Mr. Dodd, Mr. Kerry, Mr. Inouye, Ms. Moseley-Braun, Mr. Bumpers, Mr. Reed, Mr. Smith of Oregon, Mr. Rockefeller and Mr. Chafee proposes an amendment numbered 1682 to amendment No. 1676.

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

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

The amendment is as follows:

At the end of subtitle D of title I, add the following:

SEC. 14___. NATIONAL STANDARD TO PROHIBIT OPERATION OF MOTOR VEHICLES BY INTOXICATED INDIVIDUALS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 153 the following:

"§ 154. National standard to prohibit operation of motor vehicles by intoxicated individuals

''(a) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

''(1) FISCAL YEAR 2002.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1)(A), (1)(C), and (3) of section 104(b) on October 1, 2001, if the State does not meet the requirements of paragraph (3) on that date.

''(2) SUBSEQUENT FISCAL YEARS.—The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1)(A), (1)(C), and (3) of section 104(b) on October 1, 2002, and on October 1 of each fiscal year thereafter, if the State does not meet the requirements of paragraph (3) on that date.

''(3) REQUIREMENTS.—A State meets the requirements of this paragraph if the State has enacted and is enforcing a law providing that an individual who has an alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the State is guilty of the offense of driving while intoxicated (or an equivalent offense that carries the greatest penalty under the law of the State for operating a motor vehicle after having consumed alcohol).

''(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

''(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

''(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 2003.—Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 2003, shall remain available until the end of the third fiscal year following the fiscal year for which the funds are authorized to be appropriated.

''(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 2003.—No funds withheld under this section from apportionment to any State after September 30, 2003, shall be available for apportionment to the State.

''(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1)(A), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements, apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

''(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—

''(A) IN GENERAL.—Any funds apportioned under paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned.

''(B) TREATMENT OF CERTAIN FUNDS.—Sums not obligated at the end of the period referred to in subparagraph (A) shall—

''(i) lapse; or

''(ii) in the case of funds apportioned under section 104(b)(1)(A), lapse and be made available by the Secretary for projects in accordance with section 118.

''(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1)(A), the State does not meet the requirements of subsection (a)(3), the funds shall—

''(A) lapse; or

''(B) in the case of funds withheld from apportionment under section 104(b)(1)(A), lapse and be made available by the Secretary for projects in accordance with section 118.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 153 the following:

''154. National standard to prohibit operation of motor vehicles by intoxicated individuals.''.

Mr. CHAFEE. I wonder if the Senator will yield me 1 minute?

Mr. LAUTENBERG. I am happy to.

Mr. CHAFEE. Mr. President, I urge Senators who are opposed to the amendment to come to the floor. I am designated as in control of the time in opposition, but I will confess I am for the amendment so I will not be speaking against it. And for those Senators who wish time, now is the time to come over.

There are 2 hours. We have an hour in opposition to the amendment. Obviously, I am prepared to turn over the time to anybody in opposition. But I will not be speaking against it. So I wish Senators who are opposed to this amendment would come to the floor.

Thank you. I want to thank the Senator from New Jersey.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I offer this amendment with my colleague from Ohio, Senator MIKE DEWINE, and I include, as cosponsors, Senator LIEBERMAN, Senator FAIRCLOTH, Senator BOXER, Senator HELMS, Senator GLENN, Senator DURBIN, Senator FEINSTEIN, Senator BINGAMAN, Senator MOYNIHAN, Senator HATCH, Senator WELLSTONE, Senator AKAKA, Senator DODD, Senator KERRY from Massachusetts, Senator INOUYE, Senator MOSELEY-BRAUN, Senator BUMPERS, Senator REED, Senator SMITH of Oregon and Senator ROCKEFELLER join me as cosponsors in the amendment; and Senator CHAFEE, the chairman of the committee. And all together, we have 23 bipartisan cosponsors. That is the way it ought to be because this is on behalf of the victims of drunk driving crashes—over 17,000 deaths and about one million injuries each year.

This amendment, the Safe and Sober Streets Act, establishes the legal limit for drunken driving at .08 blood alcohol content in all 50 States. Establishing .08 as the legal definition of drunk driving is responsible, effective, and it is the right thing to do. This amendment, if enacted into law, will save lives. And it is our moral imperative, as legislators, to pass legislation that will make our communities, our roads and, of course, our families safe.

This is the logical next step in the fight against drunk driving. It will build on what we started in 1984, when Democrats, Republicans, and President Reagan joined together to set a national minimum drinking age to 21. And since that time, we have saved over 10,000 lives. And contrary to the concern of the restaurant and the liquor business, those businesses have not gone under, like many warned us about at the time.

Mr. President, the question before us is, should a 170-pound man be allowed to have more than four beers in 1 hour, on an empty stomach, and get behind the wheel of a car? And our answer is, absolutely not. This amendment goes after drunk drivers, not social drinkers.

And while we are pushing for enactment of this legislation, I have had the honor of getting to know some families who have experienced the ultimate tragedy—the Frazier family from Maryland. Randy and Brenda's daughter Ashley, 9 years old, was tragically killed by a .08 drunk driver 2 years ago. This person's blood alcohol content level was .08. What we are trying to do is to establish the fact that .08 is a dangerous level for people on our roads and highways. The Fraziers have lent themselves courageously to this fight,

to enact this .08 BAC level across the land.

Last March, Randy Frazier issued a call to Congress, a call that I believe captures what this issue is all about. He said, ''It is time for leadership and action here in the Congress to draw a safer, saner, and more sensible line against impaired driving at .08. If we truly believe in family values, then .08 ought to become the law of the land.

Four beers-plus in an hour—now, that is on an empty stomach, Mr. President. That is not casual. That is not a casual level. An empty stomach, four beers in an hour—a 170-pound person is already impaired in their reaction to situations. They should not be allowed to get behind the wheel of a car and create a situation that is the antithesis of what we call the protection of the family.

As we debate this issue, I want each of my colleagues to consider two things: First, ask yourself, have we done enough to combat drunk driving in this country? The answer to that question, in my view, is absolutely not. Second, is a person whose blood alcohol content is .08 percent a threat to themselves and others on the road? And the answer to that one, of course, is a resounding yes.

Adopting this amendment will simply bring the United States of America into the ranks of most other industrialized nations in this world in setting reasonable drunk driving limits.

Canada, Great Britain, Ireland, Italy, Austria, Switzerland, all have a .08 BAC limit. France, Belgium, Finland and the Netherlands have a limit of .05 BAC—half of what we commonly have in our country. Sweden is practically down to zero—.02 BAC.

We heard today from President Clinton. He is very aggressively supporting this amendment. Other supporters include Transportation Secretary Rodney Slater. They include organizations like the National Safety Council; the National Transportation Safety Board; the National Center for Injury Prevention and Control of the Center for Disease Control; the American Automobile Manufacturers Association; Kemper Insurance; State Farm and Nationwide insurance companies; MADD, Mothers Against Drunk Driving, of course; the American College of Emergency Physicians.

I had a talk with a physician today at the White House when we presented this BAC .08 bill. And a physician, the head of an emergency room in the State of Wisconsin, told me that emergency rooms are sometimes so filled with drunk drivers who had been in accidents, that they cannot adequately calibrate the blood alcohol testing machine. The room is sometimes so filled from the victim's liquor-stained breath that they had to leave the room to set the calibration on the blood alcohol testing machine.

Other supporters include the Consumer Federation of America, National Fire Protection Association—the list goes on—Advocates for Highway and Auto Safety.

And we have had newspaper editorials, such as the New York Times and the Washington Post and the Baltimore Sun. I ask, Mr. President, unanimous consent to have printed in the RECORD letters and editorials in support of this amendment.

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

[From the New York Times, Feb. 26, 1998]

ONE NATION, DRUNK OR SOBER

The danger posed by an intoxicated driver does not change when the driver crosses state lines. Neither should the legal test for sobriety. That is the practical thinking behind pending legislation in Congress to create one uniform Federal standard for drunken driving. Some critics say the measure would infringe on states' rights. But this is a problem that transcends state boundaries, requiring a tough, consistent national approach.

The measure, sponsored by Senators Frank Lautenberg of New Jersey and Mike DeWine of Ohio, and Representatives Nita Lowey and Benjamin Gilman of New York, would set a national blood alcohol limit of .08 percent. States would have three years to enact this limit before losing a percentage of their highway construction funds. This same approach was used to encourage compliance with the lifesaving 1984 law that established the 21-year-old drinking age.

Currently, only 15 states set their drunken-driving threshold at .08. Elsewhere it takes a higher level, .10, to put a driver over the legal limit. Thus most of the country would have to adopt the stricter .08 standard or lose Federal funding. This has lobbyists for liquor interests trying to depict the bill as a heavy-handed assault on harmless social drinking. But a blood alcohol level of .08 is sufficient to cause unacceptable damage to a driver's reflexes, judgment and control. Moreover, the .08 level still allows for considerable consumption. An average 170-pound man, experts say, could imbibe more than four shots of hard liquor in an hour—and on an empty stomach—before reaching a blood alcohol concentration of .08.

Far from a moralistic assault on moderate social drinking, the bill is a reasonable effort to save lives. Over 40 percent of all traffic fatalities are alcohol-related, and close to one-fourth of those crashes involve drivers with an alcohol level under the generous .10 standard. As many as 600 lives would be spared each year, and countless other serious accidents avoided, if .08 were imposed nationwide.

With support from President Clinton and lawmakers from both parties, the measure stands a good chance of winning approval when the Senate tackles the contentious issue of highway funding beginning next week—provided, of course, that generous political giving by liquor interests does not overshadow the needs of public safety.

[From the Washington Post, Nov. 8, 1997]

DRUNK IN ONE STATE, NOT THE OTHER?

Drunk drivers are deadly threats no matter where they speed or weave in this country. Yet a driver who is certifiably drunk in Virginia can roll to a ''sobriety'' of sorts merely by crossing into Maryland. That is a life-threatening inconsistency that exists around the country because there is no uniform standard of drunkenness on the roads. There could and should be a clear and effective standard—and Congress has legislation before it to bring this about.

Nearly all highway safety organizations and physicians groups consider a blood alcohol content reading of .08 as sufficient evidence of a drunk driver. That is the standard in Virginia and 14 other states, and it is hardly an unreasonable limit: A 170-pound man could consume four drinks in one hour on an empty stomach and still come in below .08; a 135-pound woman could down three drinks and do the same. But Maryland, the District and 34 other states have a looser standard—of .10. Why not agree on .08?

There ought to be a national standard, and such a proposition is now before Congress, with support from across the political spectrum. Legislation cosponsored in the Senate by Sens. Frank Lautenberg and Mike DeWine and in the House of Reps. Nita Lowey, Connie Morella and more than 40 other members would withhold federal transportation funds from states without a .08 standard. The logic is simple enough: Driving is an interstate activity.

One sorry explanation for the failure of states to adopt a .08 limit is that lobbyists for liquor interests have worked to kill the idea in state legislatures. In Congress they have trotted out states' rights objections. But states that are softest on drunk driving could keep their looser standards—it's just that federal taxpayers would not underwrite transportation projects for these states. Why should they, when looser laws mean more tragedies that cost the public that much more in health bills—and in lives lost?

Federal incentives to adopt safety measures do work. There are now 44 states that have a zero-tolerance policy for minors who drink and drive, and results show that the number of traffic deaths involving teenagers and alcohol has fallen nearly 60 percent between 1982 (before the federal law) and last year. All of this long ago should at least have propelled Maryland, the District and state legislators to move on their own. But now Congress can bring still better sense to highways by approving a uniform, nationally understood definition of a dangerous driver.

[From the Baltimore Sun, Oct. 25, 1997]

LOWER THRESHOLD FOR DRUNKEN DRIVING

You're driving on the beltway. The motorist in the next lane consumed four beers during the past hour. To paraphrase Clint Eastwood, do you feel lucky?

Amazingly, that tipsy driver may be within his legal rights in Maryland and 34 other states where a blood-alcohol concentration of 10 is the minimum to be considered drunk. In recent years, Virginia and 14 other states have stiffened their definition of intoxicated driving to .08. That's still more than four drinks for a 170-pound man on an empty stomach, more than three for a 135-pound woman.

Yet the state-by-state movement to .08 has stalled, often because lobbyists for liquor interests have successfully smothered it in the various legislatures. The liquor industry is foolish, because automobile deaths rooted in alcohol will only heap scorn on the business, but it is reflexively battling .08 laws nonetheless.

President Clinton and several lawmakers believe it is time to confront drunken driving with a national thrust, as the government is doing now to battle another killer, tobacco.

Under Senate Bill 412, authored by Sens. Frnak R. Lautenberg, a New Jersey Democrat, and Michael DeWine, an Ohio Republican, transportation funds would be withheld from states without a .08 standard.

Washington took a similar stand on teen drinking and driving in 1984—with dramatic effect. Traffic deaths involving teen-agers and alcohol dropped nearly 60 percent between 1982, prior to the federal law, and 1996.

That was twice the drop in alcohol-related traffic fatalities for the population at large.

There was also a 25 percent drop in surveys of teens who described themselves as heavy drinkers, suggesting that the force of law nudges people to drink more responsibly. That's a critical and little recognized benefit of a 08 law. In fact, states that switched to .08 recorded an 18 percent decline in fatal crashes involving drivers with blood-alcohol rates of .15.

Medical researchers estimate 600 lives would be saved a year with a .08 law. That has been the experience in other nations with stricter standards than ours, including wine-rich France and Japan, which has fewer drunken driving deaths than Maryland alone 475 vs. 671). Even in the U.S. though, the public isn't as willing to wink at tipsy drivers as it was years ago, after hearing of or being hurt by the deaths of individuals, of families, even a princess.

Four drinks in one state make you no less drunk than four drinks in another. The abundant evidence justifies a national response.

KEMPER,
Washington, DC, October 20, 1997.

Hon. MIKE DEWINE,
Russell Senate Office Building,
Washington, DC.

Hon. FRANK R. LAUTENBERG,
Hart Senate Office Building,
Washington, DC.

DEAR SENATORS DEWINE AND LAUTENBERG: You are both to be complimented for stepping forward to offer S. 412, ''The Safe and Sober Streets Act of 1997,'' to the pending reauthorization of the Intermodal Surface Transportation Efficiency Act.

While we as a nation have made progress in the effort to make drinking and driving unacceptable in our society, alcohol related traffic crashes continue to be a sizable problem. Drunk driving fatalities actually increased in 1995 for the first time in a decade.

Your legislation would require the states to enact a blood alcohol concentration threshold of .08% for impaired driving or suffer a loss in federal highway construction funding. This provision should reverse the drunk driving fatality trend and save several hundred lives each year. The .08 threshold is currently in place in Canada, many western European countries and in fifteen states in the U.S. All of the medical evidence indicates that .08 is a sensible threshold to measure driver impairment.

You may feel confident of our companies' wholehearted support of your joint initiative.

Sincerely,

MICHAEL F. DINEEN,
Vice President, Legislative Affairs.

THE COALITION FOR
AMERICAN TRAUMA CARE,
Reston, VA, September 3, 1997.

Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: The Coalition for American Trauma Care is very pleased to endorse ''The Safe and Sober Streets Act of 1997,'' that would set a national standard for defining drunk driving a .08 Blood Alcohol Content (''BAC''). The Coalition commends your leadership in introducing this legislation that will help save the more than 17,000 lives that are lost each year on our nation's highways due to drunk driving. Nothing could be more important during this week when the world mourns the tragic death of Princess Diana, a victim of drunk driving.

The Coalition for American Trauma Care is a not-for-profit organization representing leading trauma and burn surgeons, leading trauma center institutions, and 16 national organizations in trauma and burn care. The Coalition for American Trauma Care seeks to improve trauma and burn care through improved care delivery systems, prevention efforts, research, and by protecting reimbursement for appropriately delivered services.

The Coalition appreciates your efforts to save lives by enacting tougher drunk driving laws and stands ready to support you.

Sincerely,

HOWARD R. CHAMPION, MD,
President.

NATIONAL SAFETY COUNCIL,
Itasca, IL, December 8, 1997.

The Hon. FRANK LAUTENBERG,
The Hon. MIKE DEWINE,
U.S. Senate,
Washington, DC.

DEAR SENATORS LAUTENBERG AND DEWINE: The National Safety Council is writing to offer our strong support for The Safe and Sober Streets Act of 1977, S. 412, and for your plan to include the bill in legislation to reauthorize the Intermodal Surface Transportation Efficiency Act.

Drunk driving remains a national shame. Despite progress over the years, 41% of all motor vehicle fatalities—more than 17,000 lives lost—involve alcohol. Yet the current legal blood alcohol concentration (BAC) in most states is .10, the highest in the industrialized world.

The National Safety Council long has supported setting the BAC limit for adult drivers at .08, a point at which driving skills are proven to be compromised. If every state adopted .08, an estimated 500–600 lives a year could be saved. Although 15 states now have BAC limits of .08, incentive grants and public policy arguments alone have not succeeded in ensuring wider adoption of .08 laws. Strong federal leadership is needed to achieve a uniform national BAC limit of .08.

That is why we believe enactment of S. 412, which links adoption of .08 laws to federal highway funding, is a necessary and important step. Laws which set the legal BAC limit at .08 are a needed part of the combination of programs and policies which must be in place if we are to win the fight against drunk driving.

The National Safety Council commends and thanks you for your leadership on this critical issue.

Sincerely,

GERARD F. SCANNELL,
President.

AMERICAN COLLEGE OF
EMERGENCY PHYSICIANS;
Dallas, TX, September 24, 1997.

The Hon. FRANK R. LAUTENBERG,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: The American College of Emergency Physicians (ACEP), representing 19,000 emergency physicians and the patients they serve, urges you to cosponsor S. 412, the ''Safe and Sober Streets Act of 1997,'' introduced by Senators Frank Lautenberg (D–NJ) and Mike DeWine (R–OH).

Emergency physicians witness first-hand the serious injuries and fatalities that result from drunk driving. Last year, drunk driving caused more than 17,000 deaths on our nation's highways. Epidemiologic data has well established that all drivers are impaired at a blood alcohol concentration (BAC) of .08. Furthermore, at this level, the risk of being in a crash increases significantly.

For many years, the College has supported the National Highway Traffic Safety Administration's (NHTSA) recommendation that states adopt .08 BAC as the legal standard for intoxication. The ''Safe and Sober Streets Act'' would establish a national standard for defining drunk driving at .08 BAC by encouraging all states to adopt this limit.

The facts cannot be disputed. Too many lives have been lost and many more are put at risk every day by drunk drivers. As emergency physicians, we believe that our success is measured not only by the lives we save in the emergency department, but also by the lives we save through prevention. Thus, we urge you to support and help pass this important highway safety measure.

Sincerely,

LARRY A. BEDARD, MD, FACEP
President.

AMERICAN AUTOMOBILE,
MANUFACTURERS ASSOCIATION,
Washington, DC, March 2, 1998.

The Hon. FRANK R. LAUTENBERG,
U.S. Senate, Hart Senate Office Bldg., Washington, DC.

DEAR SENATOR LAUTENBERG: This letter is to urge your support for legislation that would provide states with an incentive to adopt and enforce an anti-drunk driving standard of 0.08 Blood Alcohol Concentration (BAC). Such a proposal is contained in S. 412, the Safe and Sober Streets Act, co-sponsored by Senators Lautenberg, DeWine and twenty-one others. This proposal is expected to be offered as an amendment to S. 1173, the ISTEA reauthorization bill.

According to the U.S. Department of Transportation's most recent report, alcohol-related crashes account for 40 percent of all traffic fatalities. While good progress has been made over the past decade, the number of alcohol-related deaths is still over 17,000 each year. In addition, some 1.4 million drivers were arrested in 1995 alone for driving under the influence of alcohol.

Moreover, safety belt use, now required by 49 states, is markedly lower among drivers and occupants involved in alcohol-related crashes.

Clearly, more needs to be done. Currently, in most states the standard for ''legal'' intoxication is 0.10 BAC, while states that have enacted .08 BAC legislation have witnessed significant reductions in alcohol-related traffice fatalities, according to statistics compiled by Mothers Against Drunk Driving.

AAMA and its member companies, Chrysler, Ford and General Motors strongly urge your support of this legislation.

Sincerely,

ANDREW H. CARD, Jr.
President.

Mr. LAUTENBERG. But more important than the scores of businesses, health and science organizations, governmental agencies, public opinion leaders, is the support from the families and friends of victims of drunk driving—like, as I mentioned before, the Fraziers. They come from Westminster, MD. They lost their 9-year-old daughter Ashley.

I have also gotten to know very well some people from New Jersey, Louise and Ronald Hammell of Tuckerton, NJ. They lost their son Matthew who was growing up in the full bloom of life—very positive, doing things for the community and others. He ultimately sought to be a minister, the wonderful young man. He was rollerblading on the other side of the highway from the car that became involved in his death, and that driver crossed over the yellow line dividing the two lanes of traffic, and came all the way to the shoulder

and killed this young man, and so early in his life that he had not really yet begun to develop.

Who opposes this amendment? That is the question we have to ask ourselves. The American Beverage Institute, the National Restaurant Association, the Beer Wholesalers, what is it that they have in mind when they oppose this? They say that ''Oh, we're going to lose business,'' that you ought to be targeting the chronic heavy drinker.

Well, we are after the heavy drinker. That is why we have those roadblocks. And it is sometimes very hard to stop those who are so addicted to a substance that they cannot control themselves and wind up harming others. But does that mean that we ought not to bother because some get away with it? We know that we have to have traffic rules, we have to have red lights. Some people do not obey them. But the fact of the matter is, the majority is well-served by having rules that protect the public.

Organizations, Mr. President, which support this amendment have one thing in mind—the public's interest, the health and safety of our communities and of our roads and of our families. Organizations who oppose this amendment have one interest in mind—they only care about protecting their narrow special interest.

We have to make that judgment here. Drunk driving continues to be a national scourge that imposes tremendous suffering on the victims of drunk driving crashes and their loved ones.

In 1996, 17,126 people were killed in alcohol-related crashes. About one million people were injured in alcohol-related crashes. And I point out, Mr. President, that in the worst year of the Vietnam war—an event that scarred the hearts and the minds of people across our country—in 1 year, the worst year in Vietnam, we lost just over 17,000 people. So here, every year, we lose 17,000-plus people in drunk driving crashes. And it compares to the worst year of a war that left our Nation in mourning for many years.

Every one of these deaths and injuries could have been prevented had the driver decided to call for a ride, hand the keys to a friend, or do anything other than taking that wheel. When that person takes that wheel, it is as if they are carrying a gun. The only question—when is that thing going to go off? It is no different. Murder is murder, and the victim is just as dead whether it comes from a drunk driving accident or whether it comes from the pulling of a trigger.

Deaths and injuries that are due to drunk driving are not ''accidents.'' They are predictable and preventable. Every 30 minutes someone in America—a mother, a husband, a child, grandchild, brother, sister—dies in an alcohol-related crash.

In the United States, 41 percent of all fatal crashes are alcohol-related. Alcohol is the single greatest factor in motor vehicle deaths and injuries. The first step in combating this epidemic is to inject the sense of sanity in our Nation's drunk driving laws and by enacting the Safe and Sober Streets Act. The amendment we have in front of us will go a long way toward reducing the deadly combination of drinking and driving.

Mr. President, my amendment, which would have the effect of lowering this Nation's tolerance for drinking and driving by 20 percent, is what ought to be considered now. This amendment requires all States to define the point at which a driver would be considered to be drunk as .08 blood alcohol content. Fifteen States already have .08 BAC and would be unaffected by my amendment. My State of New Jersey does not have a .08 BAC, nor does the State of my chief colleague in this, Senator MIKE DEWINE, from Ohio, who is well aware of that deficiency in the State law.

Mr. President, .08 is a reasonable and responsible level at which to draw the line in fighting drunk driving. Despite what we are all hearing from special interests and their lobbyists, at .08 a person is drunk and should not be driving. Their reaction is impaired. They can't stop quick enough; they accelerate too fast; they turn too erratically.

In fact, Congress, in its wisdom, set the limit for commercial motor vehicle drivers at .04 BAC in the 1980s. So, Congress clearly understands the connection between the consumption of alcohol and the critical ability needed to drive a vehicle safely on our highways.

Mr. President, .08 BAC is just common sense. Think of it this way: You are in your car, driving on a two-lane road at night. Your child is traveling with you. You see a car's headlights approaching. The driver in this case is a 170-pound man who just drank five bottles of beer in an hour on an empty stomach in a bar. If he were driving in Maryland, he would not be considered drunk. But if he were driving in Virginia, he would be. Does it make sense? We should not have a patchwork quilt of laws when we are dealing with drunk driving.

We had the privilege of hearing the chief of police of Arlington County, VA, today at the White House. He talked about what has happened since Virginia reduced its BAC level to .08. They saw a marked improvement in the reduction of deaths on their highways. Here was someone who had the practical responsibility, the practical knowledge of seeing these victims, of tending to the injured people. He said it works. Let's do it.

Regarding this amendment, .08 utilizes what sound science and research proves, and interjects some reality in our definition of drunk driving and applies it to all 50 States so someone can't drink more and drive in New York than in New Jersey, or in this case, someone drinking in Maryland and driving to Virginia when their blood alcohol level is beyond .08.

Mr. President, there are 10 facts that demonstrate the need for this amendment:

Fact No. 1: Drunk driving continues to be a shameful epidemic that destroys our families and communities: 17,000 deaths each year to drunk driving. Isn't 17,000 too many? Each year in this country more people are killed in alcohol-related crashes than are murdered by firearms. Families and friends of drunk driving victims experience tremendous grief which changes their lives forever. Moreover, deaths and injuries from alcohol-related crashes have an enormous economic impact as well. Alcohol-related crashes cost society over $45 billion every year.

One alcohol-related fatality is estimated to cost society about $950,000, and an injury averages about $20,000 in emergency and acute health care costs, long-term care and rehabilitation, police and court costs, insurance, lost productivity, and social services.

The problem exists, and we must do more to reduce drunk driving. The American people agree. Reducing drunk driving is the No. 1 highway safety issue for the American people.

Mr. President, here is a chart reflecting a Lou Harris poll conducted 1 year ago that found that 91 percent of the respondents believe that the Federal role in assuring highway safety is critical. What do Americans consider to be the No. 1 highway safety problem? Fifty-two point nine percent look at drunk driving as the No. 1 highway safety problem; 18.6 percent look at drivers who exceed the posted speed limit by more than 15 miles per hour; 13.7 percent, young or unexperienced drivers; 6.2 percent, elderly drivers; 5.7 percent, highways in poor condition.

The poll showed the two principal causes of problems on our highways are drunk driving and those who are speeding, with drunk driving overwhelmingly the most feared matter for highway safety.

Fact No. 2: It takes a lot of alcohol for a person to reach .08, contrary to what most people think and contrary to information being given out by the alcohol lobby. I want to clear this up. According to the National Highway Traffic Safety Administration and the National Safety Council, a 170-pound man would have to drink four and one-half drinks in 1 hour on an empty stomach to reach .08 BAC; a female weighing 137 pounds would have to have three drinks in 1 hour, no food, and she is still below .08. The male, at 170 pounds, drinks four drinks and is still below .08. We are not talking about the kind of drinking that is a casual single glass of wine with dinner, contrary to what the lobbyists would have you think.

Mr. President, people with .08 BAC are drunk. Or as others say, they are blitzed, wasted, trashed, bombed. The last thing they should do is get behind the wheel. We used to use an expression around the country, and I remember hearing it often, ''Let's have one more

for the road.'' That is the last thing that we want to encourage. That is out. That happy hour is long since gone.

Fact No. 3: Virtually all drivers are seriously impaired at .08 BAC and shouldn't be driving. Here is a chart from the National Highway Traffic Safety Administration. They say at .08, concentrated attention, speed control, braking, steering, gear changing, lane tracking and judgment are impaired. When you get down to even lower levels, half of what the current level is in 35 States in the country, .05, you are talking about problems with tracking, divided attention, coordination, comprehension, and eye movement.

We are not looking to abolish social drinking. We are not looking to create a new temperance in society. What we are saying is that .08 is dangerous if you are driving.

Fact No. 4: The risk of being involved in a crash increases substantially by the time a driver reaches .08 BAC. The risk rises gradually with each BAC level, but then rises rapidly after a driver reaches or exceeds .08 BAC compared to drivers with no alcohol in their system. In single vehicle crashes, drivers with BAC's between .05 and .09 are 11 times more likely to be involved in a fatal crash than drivers with a BAC of zero.

Fact No. 5: .08 BAC laws have proven to reduce crashes and fatalities. One study of States with .08 BAC laws found that the .08 BAC laws reduced the overall incidence of alcohol fatalities by 16 percent. In other words, the involvement in fatal crashes is pervasive when alcohol is taken before the driver gets behind the wheel.

This study also found that .08 laws reduced fatalities at higher BAC levels, meaning they had an effect on extremely impaired drivers. Separate crash statistics have confirmed that finding. When the National Highway Traffic Highway Safety Administration studied the effect of .08 in five States—California, Maine, Oregon, Utah, and Vermont—it found significant reductions in alcohol-related crashes in four out of the five States, ranging from 4 percent to 40 percent when compared to the rest of the States with .10 BAC laws. You may hear that there is no ''objective evidence'' showing that .08 works. We have heard statements like that before from the tobacco industry, always declaring it is not proven, it is not sure, and it is not certain, but the person who is dead is dead and the family that is broken-hearted stays broken-hearted for life.

Fact No. 6: Lowering the BAC limit to .08 makes it possible to convict seriously impaired drivers whose levels are now considered marginal because they are at or just over the .10 BAC, and the judge says, in many cases, ''OK, you are at 0.11; listen, watch yourself and don't do it again.'' Drinking and driving is a serious offense which should be handled by the appropriate authorities.

Because .08 BAC laws are a general deterrent and have proven to deter even heavier drinkers from driving, the public has an increased awareness and understanding of what it takes to be too impaired to drive. After Virginia passed the law I mentioned before, not only did traffic fatalities go down but arrests also were reduced. Mr. President, .08 laws are not the problem. They are the solution.

Fact No. 7: Most other Western countries already have drunk driving laws that are .08 or less. Here are some of the countries: Canada and Great Britain are .08; Australia varies between .05 and .08; Austria, .08; Switzerland, .08; France, The Netherlands, Norway, Poland, Finland, .05; Sweden, .02. Are we owned by the liquor-producing establishment? Are our families to be governed by rules established by the liquor lobby? I think not. This amendment would bring us into the civilized world when it comes to drunk driving laws.

Most other countries have adopted these laws because they work. For example, over the past few years France has systematically reduced its legal limit for drunk driving and has seen measurable results. In France, the country that is first in per capita wine consumption, a motorist can have his or her license revoked at .05 BAC and can be jailed if caught driving at .08 BAC. It is estimated that 33 percent of all traffic fatalities in France are alcohol-related.

Fact No. 8: The American people overwhelmingly support .08. When the question is asked, Would you be in favor of lowering the legal blood alcohol limit for drivers to .08, 66 percent of the males said yes, 71 percent of the females said yes; the female, the mother, the one who inevitably feels most pain in a family when there is a loss, 71 percent said, Please, America, stop this; get the blood alcohol limit down to a sensible point. And as we saw even at .05 people's actions are impaired. So what we are doing is the right thing here. We hope we can get the liquor people and some of the restaurant people and beer wholesalers to come on over, join us, and be the kind of corporate citizens that we know you would like to be.

So NHTSA surveys all show that most people would not drive after having two or three drinks in 1 hour and believe that the limit should be no higher than that which would get them there.

Fact No. 9: We need a national drunk driving limit. The best approach is the one we employ because it works. This amendment is written the same way as the 21-year-old drinking age law. If the medical and scientific evidence show that a person is impaired at .08 BAC and should not be driving, why should someone be deemed to be drunk in one State but not the other? If they cross the State boundary and kill somebody, that person is just as dead, and that family is just as wounded. This bill will save lives, and it is a much more compelling argument than any other.

As President Reagan said when he signed the 21 minimum drinking age bill into law, ''We know that drinking, plus driving, spells death and disaster . . . The problem is bigger than the individual States . . . It's a grave national problem, and it touches all our lives. With the problem so clear-cut and the proven solution at hand, we have no misgivings . . .'' President Reagan, who was strictly a person who liked to limit Federal power, said that. ''. . . we have no misgivings about this judicious use of Federal power.''

Sanctions, which is what we are proposing, work and soft incentives do not work. Since .08 BAC laws were part of the incentive grant program in 1993, only a handful of States have adopted .08. Incentive grant problems are the alcohol industry's best friend because they rarely have positive effects. Most telling, no single State lost highway funds as a result of the 21 drinking age law, and we expect no State to lose highway funds from the zero tolerance law. Some initiatives are important enough to employ that tool.

Fact No. 10: Based on past history, adopting .08 will not hurt the economy. There is no evidence that per capita consumption of alcohol was affected in any of the five .08 BAC States examined by NHTSA. A different, four-State analysis conducted by several alcohol industry organizations showed virtually no effect on overall consumption.

In the alcohol industry analysis, Maine, which adopted .08 in 1988, saw a slight dip in alcohol consumption in 1988, but restaurant sales actually increased 11 percent. Restaurants and the alcohol industry should support this bill because they care about their patrons. They don't want to hear about someone who just left their establishment and wound up killed on a road a few miles away. I don't care how much somebody drinks. They can drink until they fall off the bar stool; but just don't get behind the wheel of a car. This is a reasonable amendment.

We are not talking about prohibition. Remember, when you are in a bar and look at a table full of people, .08 applies to only one of those people—the driver.

As my colleagues read the materials disseminated by the opponents of this measure, you have to think to yourself, is .08 the right or the wrong thing to do? You can only have one conclusion if you care about your constituents. Don't get tangled up in whether this is too broad a reach for the Federal Government. Is it too broad a reach when the Federal Government saves lives, or when the Federal Government enacts environmental legislation that takes lead out of public buildings? Is it too much of a reach when the Federal Government posts warnings about air quality? Not at all. So don't get fooled by the alcohol lobby's machinations out there, saying, ''You can't prove it. It's not so. You should work on the chronic alcoholic.'' Yes, we want to work on the chronic alcoholic, but we want the casual drinker, someone who doesn't

realize that when they get to .08, they are in dangerous territory when they get behind the wheel. So I hope my colleagues will all join in and support this amendment.

Consider what the Wall Street Journal said:

> Safe alcohol levels should be set by health experts, not the lobby for Hooter's and Harrah's. The Lautenberg amendment isn't a drive toward prohibition, but an uphill push toward a health consensus.

Mr. President, the Senate has heard my policy arguments. The facts are on our side. I want all Senators to weigh those facts carefully. But I also want them to think about one other issue—not a fact, but a person. I want them to think about the Ashley Fraziers in their State. The child in this photograph was 9 years old. We heard her mother and father talk about her today. This accident took place about 2 years ago. They still mourn every day. When her mother Brenda talked about Ashley, she said they still set a table for four, even though they know there are only going to be three people sitting at that table, because they don't want to forget Ashley. Ashley was killed by a woman, underage, driving with a .08 blood alcohol content. Mr. President, I hope that Senators and the American people can see this child, because there isn't any one of us who is a parent or a grandparent who doesn't so treasure the life of a child like this that we would give our own lives to protect her. We are not being asked to give our lives; we are being asked to give our judgment, we are being asked to give our support.

Two years ago, Ashley's parents heard a noise and saw a sight that they will never forget. She said this morning at the White House, in the presence of the President, that they want to make sure that this never happens to other people. They were unselfishly baring their souls, anguish, and grief to prevent the possibility of someone they don't even know from losing a child like this beautiful young girl. This was a tragedy. Stop and think about the senseless death of this 9-year-old. It pulls our heartstrings, all of us. I ask all Senators to think of this when they vote on this amendment. Think of a family's pain when they lose a child, a loved one, and help us to try to prevent this from happening again.

I urge my colleagues to support the Lautenberg-DeWine amendment to keep drunk drivers off the roads and keep them away from our kids.

I yield the floor.

Mr. CHAFEE. Mr. President, could you give the time situation? The agreement is that each side will have 1 hour. I see Senators here who will speak for the amendment. I think we can yield time to the proponents of the amendment. I am not worried about that. But I want to protect the rights of any Senators who might come over and would be against the amendment.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from New Jersey has 22½ minutes remaining. The Senator from Rhode Island has 59 minutes 30 seconds.

Mr. CHAFEE. All right. If the Chair could announce when the proponents of the amendment have reached their 60 minutes, that would be helpful, and then we can figure out how to go from there. I am confident there will be time that we can yield from the side I control. But if the Chair could let us know when 60 minutes of the proponents' time is up, I would appreciate it.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. I yield such time as I have available to my colleague from Ohio, Senator DEWINE.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. LAUTENBERG. Would the Chair mind repeating the time available?

The PRESIDING OFFICER. The Senator from New Jersey has 22 minutes.

Mr. LAUTENBERG. I understood the manager on the other side to say he would be willing to accommodate by yielding time from his available time to other proponents. I ask the Senator from Ohio how much time he thinks he needs?

Mr. DEWINE. I state to my colleague, I wonder if I can have 20 minutes, and if the Chair can notify me after 20 minutes, we will see who is on the floor and wants to speak at that point.

Mr. CHAFEE. I am confident that we will have time for the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, let me first thank and congratulate my friend and colleague from New Jersey, not just for his very eloquent statement and leadership today, but for his work over the years. His work has made a tremendous difference in saving a number of lives.

Mr. President, at 10:30 tomorrow morning, Members are going to have the opportunity to do something that we don't always have the chance to do. Many times, we vote on issues and we think we are right, but we don't know what the ultimate effect is going to be. This is one of those times where when we cast our vote, we know what the effect is. Members who come to the floor tomorrow morning at 10:30 to cast their vote on this amendment and vote ''yes'' will clearly be saving lives. There is absolutely no doubt about it. That is one thing we know. We know it based on statistics and based on history. We know it based on common sense. That is, I think, a great opportunity that we will have tomorrow. This amendment, make no mistake about it, will save lives.

As we consider legislation to authorize funds for most of our Nation's highways, we cannot avoid the issue of the safety of those highways. Tragically, in the last couple of years we seem to have been losing ground in highway safety. After well over a decade of progress, we are starting slowly to move backward.

According to the National Highway Traffic Safety Administration, alcohol-related traffic fatalities dropped from 24,050 in 1986 down to 17,274 in 1995. That was a 28 percent decrease in drunk driving tragedies over a decade. We as a nation, Mr. President, can take pride in the progress that we made.

However, unfortunately, from 1994 to 1995, alcohol-related traffic fatalities rose 4 percent—the first increase in over a decade. In 1995, alcohol-related traffic fatalities increased for the first time in a whole decade. That year, there were 17,274 fatalities from alcohol-related crashes.

Mr. President, this amendment is an attempt to gain back some of the ground that we have lost in the battle against highway fatalities. It would set a national blood alcohol standard—a standard above which the driver is legally under the influence and should not be driving an automobile. All widely accepted studies indicate that the blood alcohol standard should be set at .08 BAC, the blood alcohol content.

Mr. President, at .08 blood content, no one should be driving a car. I don't know any expert, I don't know any police officer, I don't know any scientist who has seriously looked at this issue in the whole country who does not agree with that—who does not agree that at .08 you are under the influence of alcohol, and your judgment, your reflexes, your control of the car, everything is appreciably impaired. There is no doubt about it.

Mr. President, the facts are that the risk of being in a crash rises gradually with each increase in the blood level content. We know that. NHTSA reports that in single-vehicle crashes the relative fatality risk for drivers with blood alcohol content between .05 and .09 is over 11 times greater than for drivers with a blood alcohol content of zero—11 times. When a driver reaches or exceeds the .08 alcohol level, the risk goes up even more. In fact, it dramatically shoots up even above that high standard.

Mr. President, at .08, one's vision, one's balance, one's own reaction time, one's hearing, judgment, self-control, all are seriously impaired. Moreover, at .08, the critical driving task, concentration, attention, speed control, braking, steering, gear change, lane tracking are all negatively impacted and affected.

We have all heard the arguments. The alcohol industry, in arguing against this standard, claims that—get this now—only 7 percent of the fatal crashes involve drivers with blood alcohol content between .08 and .09—only 7 percent. But what does that mean? What that translates into, if you use 1995 figures, it translates into 1,200 people in that year alone dying—1,200 people who are at precisely that level.

Some of the opponents of this bill would argue, ''Oh, it is only 7 percent.'' Tell that to the parents who lost a child. Tell that to the brothers who lost a sister, or children who lost siblings or who lost parents. Changing the

blood alcohol level content to .08 could have saved many of these lives.

Where the .08 laws have been tried, they have been proven to reduce crashes and fatalities. A study done at Boston University found that .08 laws reduced the overall incidence of alcohol-related fatalities by 16 percent. Moreover, that same study found that .08 laws also reduced fatalities at higher blood alcohol levels by 18 percent.

So it doesn't just have an impact on the .08 and .09 level; it serves as a deterrent, which affects the entire scale.

Lowering the blood alcohol limit to .08 makes it possible to convict seriously impaired drivers whose blood alcohol contents are now considered marginal, because they are just at or just over .10. Further, the .08 blood alcohol level is a supremely reasonable standard.

Let's look at the chart again that my colleague from New Jersey, Senator LAUTENBERG, showed a moment ago. I think it is important to look at this because there always is in debates such as this some misinformation that is going around. I think you have to get back to the scientific data and to look at this.

In order for a 170-pound male to reach a blood alcohol content of .08, that male would have to consume four drinks, four beers, four shots, four glasses of wine, four in 1 hour on an empty stomach. Is there anyone in this Chamber, is there anyone in the Senate, who believes that they could sit down, drink four shots in an hour, and then get behind the wheel and drive? You might be able to do it. But would you be able to do it very well? I think the answer is clearly no.

Maybe a better question we all should ask ourselves is how many of us, knowing a friend of ours, or acquaintance, or neighbor who had four drinks in an hour on an empty stomach, would say to that person, ''Why don't you take my daughter, Anna, uptown to McDonald's, put her in your car, and drive her?'' It is ludicrous. There isn't a person who would do that. We know that. Yet, that is what it would take to reach the .08 standard.

A 135-pound female typically would have to consume three drinks in the same period of time.

In other words, Mr. President, the .08 standard is targeted towards those who engage, frankly, in binge drinking—not, let me repeat, social drinking. This bill will not impact social drinkers.

The opponents of this legislation apparently want the public to believe that our legislation would target for prosecution individuals who have had a beer or two, or had a beer and a pizza. That is the opposite of the truth.

I think we should ask ourselves the simple question: Should the average person who has consumed four shots of distilled spirits in an hour, four beers, four glasses of wine on an empty stomach, be behind the wheel of a car? We all know what the answer to that is.

Mr. President, the .08 legislation sets an intelligent national minimal standard, the same kind of commonsense standard that President Reagan pointed to in 1984 when he signed legislation raising the national minimum drinking age to 21. The results are in. The results of that action by this Congress and that President are in. In every year for which the national minimum drinking age was changed, roughly 1,000 lives were saved.

No one believes in States rights more than Ronald Reagan. No one talked about it more eloquently. And there were those when Ronald Reagan took that position in 1984 who said that is inconsistent, that is wrong. We understand that argument. I think Ronald Reagan had it right, as he did a lot of times. His answer was very eloquent. This is what he said about really the same type issue. I quote from President Reagan:

> This problem is much more than just a State problem. It's a national tragedy. There are some special cases in which overwhelming need can be dealt with by prudent and limited Federal influence. And, in a case like this, I have no misgivings about a judicious use of Federal inducements to save precious lives.

President Ronald Reagan, 1984, on a very similar issue.

Mr. President, our purpose here today is really exactly the same as President Reagan's was back in 1984. We are working together in a very bipartisan way to guarantee a fundamental right, because this really is about rights. It is about freedom—the right of freedom to know that when you put your family in a car on a highway and you put your child in a car, there will be an absolute minimum national standard for how sober some other person has to be to drive on that same highway. So, if there is some minimum standard when I am in Cincinnati and leave Ohio and go into Kentucky, and maybe a few minutes later go into Indiana, cross State lines, that there is some national floor, a minimum standard of responsibility. That is about my freedom as a driver. That is about my family's freedom. That is about, I think, responsibility.

That is the rationale behind the .08 standard embodied in this amendment. Simply put, a person at the .08 blood alcohol level is under the influence. No one disputes that. No one. And that person simply should not be driving a car. Our amendment would make this principle the law of the land, and it would save many, many lives.

Mr. President, I see that my time is about up. I at this point reserve the remainder of the time. I do not know if anyone—Senator CHAFEE is on the floor—who wants to speak against the bill at this point wants me to yield time. I see my colleague from Illinois is on the floor. I will reserve the remainder of our time at this point.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you, very much.

Mr. President, I thank my colleagues for yielding time. I will be very brief because I know time is short. In addition, I would like to make some comments regarding the underlying bill, the ISTEA bill.

But, in the first instance, with regard to this amendment, I am very, very pleased to be a cosponsor of the amendment and proud to stand in support of it today. We were over at the White House this afternoon for an announcement regarding this important amendment, the .08 amendment. I was just so struck by the families who were there who had lost young ones, who had lost family members to drunk drivers; struck, also, by the fact that what is being called for in this legislation is ultimately very, very reasonable.

This legislation is not prohibition. It does not require someone not to drink at all. What it says essentially is you not get plastered when you get behind the wheel, and not get so impaired in your physical capacity that you put other pedestrians and other drivers at risk.

Listening to the mother this morning talk about how she was taking her daughter to the schoolbus when a drunk driver just came out of nowhere and took the little girl's life was enough to send chills through the heart of any mother, any parent, and certainly ought to commit our attention to the gravity of this matter and the importance of it.

There is no question but that the .08 blood alcohol level saves lives. Studies have shown that States which have adopted .08 laws have had significant drops in alcohol-related traffic deaths and that a national .08 law could prevent up to 600 deaths a year. That does not even take into account the injuries, the loss of capacity, the trauma to people that could be avoided as well—just in fatalities alone, 500 to 600 fatalities a year.

My home State of Illinois has a .08 limit.

I want to report to everybody who is looking at this issue that the results were immediate and dramatic upon the adoption of this statute by the Illinois legislature. In the first holiday weekend in Illinois, under the .08 statute, which was the 4th of July, 1997, alcohol-related fatalities were 68 percent lower than the same period in 1996—68 percent fewer deaths on a weekend. That is a dramatic result from a simple step that is a reasonable step and that ought to be taken for this entire country.

The question has been raised whether or not this is something the States themselves can do. I would point out that, again, my State of Illinois has a .08 level. Other States have higher levels. It should not be an accident of geography for Americans to be secure in the knowledge that drunk drivers will not confront them on the highways. Individuals should be able to have the

confidence that if they cross over the border from Illinois to Indiana, or Illinois to Wisconsin, or Illinois to Missouri, that they will enjoy the same safety that they do in our State.

I think that this is a commonsense law, a commonsense amendment, it is a life-saving amendment, and certainly an amendment whose time has come. I urge my colleagues to support the Lautenberg-DeWine .08 amendment to ISTEA.

Mr. President, I would like to ask unanimous consent—I ask the manager of the bill—to be allowed to speak on the underlying bill and that it not be charged to this amendment.

Mr. CHAFEE. What I suggest, Mr. President, is that I am perfectly prepared to give 10 minutes from the opponents' side of the amendment to the Senator from Illinois, if that is adequate time.

Ms. MOSELEY-BRAUN. I think it will be. Yes.

Mr. CHAFEE. All right.

Ms. MOSELEY-BRAUN. I appreciate that.

The PRESIDING OFFICER. The time will be so allocated.

Ms. MOSELEY-BRAUN. Mr. President, the good news about ISTEA today is that an agreement has been ratified by the committee that will provide $26 billion in additional funding to improve our Nation's highways. The better news for States like mine and for the Nation's intermodal transportation system is that this additional money will be distributed in more effective and fairer ways than the rest of the money authorized under ISTEA. This addition to the underlying ISTEA formula will make this landmark legislation better serve the interests of our entire country. I congratulate the budget negotiators and the members of the committee for their sensitivity to the needs of States like Illinois and to the role of transportation as an activity that touches all of our country and brings us together as a people.

My home State of Illinois serves as the transportation hub for our Nation's commerce. It is home to the world's busiest airport and two of the world's busiest rivers. It is where the Nation's freight railroads come together to move goods from one side of the country to another. It is the center of the Nation's truck traffic. If you add up the value of all truck shipments in the country, Illinois has by far the largest share of any State. If you count the ton-miles of truck shipments that pass through States on their way to their final destinations, Illinois has by far the largest share of any State.

This map shows very clearly how we are the hub. We are the hub not only for the Midwest but, really, we are the crossroads of the country.

Illinois's roads, therefore, must literally bear the weight of the largest share of the Nation's commercial activity and our roads are suffering as a result. According to some estimates, nearly 43 percent of Illinois roads need repair, and almost one-fourth of our bridges are in substandard condition. Every year, Illinois motorists pay an estimated $1 billion in vehicle wear and tear and other expenses associated with poor road conditions.

In Chicago the traffic flow on some of the major highways has increased sevenfold since those highways were built in the 1950s and in the 1960s. According to a recent study, Chicago is the fifth most congested city in America.

Today's agreement provides relief to Illinois and to our Nation's transportation system, above and beyond the original ISTEA proposal. Today's agreement creates a new program, targeted toward high-density States like Illinois. The plan allocates $1.8 billion over the next 5 years for this program, of which Illinois will receive at least $36 million, and up to $54 million, a year. All told, Illinois will receive approximately $900 million more for highway improvements over the next 6 years under the agreement approved this morning by the Environment and Public Works Committee.

This is very good news for Chicago area residents who are counting on Federal funds to fix the Stevenson Expressway, and not just Chicago area residents but everybody who comes through the State using the Stevenson. This highway was built in 1964 and has become one of the most important arteries in the area, making connections to the Tri-State Tollway and the Dan Ryan Expressway. The road, the Stevenson, is literally falling apart. The State has asked for $175 million over the next 2 years to aid in this project, and today's agreement provides enough additional funds to Illinois, an additional $200 million every year for the next 6 years, and with that money the State will be able to repair the Stevenson on the schedule that is most desirable to facilitate traffic.

There is more good news. Wacker Drive, a major two-level road in the heart of downtown Chicago, is collapsing. If anyone has ever driven Wacker Drive in Chicago—it is green, and we used to call it Emerald City down there, but it's a double-decker road. According to a recent report, water leaks through joints of the double-decker road when it rains, loosening already fractured concrete and threatening to pour chunks of debris onto vehicles on the lower level. If no repairs are made, Wacker Drive will have to be closed in 5 years. This agreement allows not only for full funding of the Stevenson repair, but additional funding for Wacker Drive.

There is more good news, even greater good news for natives of western Illinois who are counting on Federal assistance for a variety of projects along U.S. 67, which runs from just outside of St. Louis, in the southwest corner of Illinois, to the Quad Cities in the northwest corner. So, over in this area.

There are literally hundreds of road repair projects planned in my State, and today's agreement goes a long way toward turning those plans into actual road improvements.

I want to thank Senator CHAFEE, Senator BAUCUS and Senator LAUTENBERG for their hard work in putting this arrangement together.

Now, this, today's announcement, I am so pleased about this part of it, but I think I would be remiss in not mentioning my sadness that we have not been able to do better by mass transit. We have increased, in this agreement, transportation spending by $26 billion, but not one additional dime will be devoted to mass transit improvements. Historically, there has been a split between spending increases for surface transportation and mass transit in an 80/20 ratio. Preserving this ratio is, I think, essential to ensuring the viability of transit systems around the country.

Mass transportation not only moves people from one place to another; it helps the environment. Without public transportation, without public transit, there would be 5 million more cars on the road and 27,000 more lane miles of road, again increasing the pollution of our environment. Transit is also a great economic investment. The net economic return on public expenditures for public transportation is 4 or 5 to 1. When mass transit improvements are made, land values go up, commercial development increases, jobs are created and people can get where the jobs are. They can get to work. Without transit, congestion alone would cost our national economy some $15 billion annually. In the Chicago area, in my State, congestion and bottlenecks already sap economic productivity, it is estimated, by about $2.8 billion every year. Without the additional investments in the area's transit system, that number could increase.

Again, it is regrettable that we have not been able to do more for mass transit. We have great needs. The Regional Transportation Authority of Northeastern Illinois, the Chicago Transit Authority, Metra, and all of the transit authorities in the State, are in dire need of additional support. I hope before this legislation is finalized, we will understand the importance of mass transit to the Intermodal Surface Transportation Efficiency Act, to the efficiency of our surface transportation effort in this country.

But in the meantime, I did want to take this opportunity—I thank Senator CHAFEE for indulging me this time—but also to say thank you to him and the other budget negotiators for the additions and for the improvements, in my opinion, to the underlying formula. I think this goes a long way, again, to achieving the goals of the ISTEA, achieving the goals of intermodal surface transportation efficiency.

We ought to talk about transportation as a people issue, which it really is. It's not just about roads and bridges and cars and trucks; it is about the people of this country being connected one to the other and being able to

carry out the commerce and the activity that keep this country strong. I thank these negotiators for their work.

I yield the floor.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from Illinois for those very kind comments. I am glad we are able to be of help.

I will say she is a tenacious battler for Illinois, so I was particularly glad we were able to be of some help in the particular situation Illinois faced.

Mr. President, the Senator from Arkansas has some comments. How much time do I have? Is the proponents' time—perhaps you could give us an account of the time.

The PRESIDING OFFICER. The time of the proponents has expired. The Senator from Rhode Island has 53 minutes.

Mr. CHAFEE. I yield such time as the Senator from Arkansas needs.

Mr. HUTCHINSON. I appreciate this indulgence. I ask consent to speak in morning business. I am going to speak on a different subject. If the chairman would like that not to count against his time——

Mr. CHAFEE. That is fine. How long will my colleague be, roughly?

Mr. HUTCHINSON. Up to 15 minutes.

Mr. CHAFEE. Fine.

Mrs. HUTCHISON. I ask consent to speak 15 minutes as in morning business.

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

Mr. CHAFEE. Mr. President, may I just say one other thing? I would like to say to all Senators who are listening that now is your chance to come over and speak against the amendment if you so choose. Time is running out here and, frankly, at the conclusion of the comments of the Senator from Arkansas and then a couple of minutes that the Senator from Ohio wants, unless there are people present wanting to speak, it is my intention to yield back the remainder of our time and have the Senate go out.

So, anybody who wants to speak about this amendment—they will have a half-hour tomorrow, that is true. But now is the time to come over. We have some 50 minutes. The Senator will be taking 15, so there will be 35 or 40 minutes left. Now is the time to speak against the measure if anybody wishes to.

If the Senator will proceed?

Mr. HUTCHINSON. Mr. President, I take a moment to commend the Senator from Rhode Island and compliment him for the outstanding leadership he provided the Environment and Public Works Committee on the ISTEA II bill.

It has been suggested he should be nominated, if you have not been, for a Nobel Peace Prize for bringing all the various factions together in what is, I think, a very worthwhile bill that will be to the benefit of all Americans. I commend the Senator.

PRESIDENT CLINTON'S STATEMENT CONCERNING THE TAX CODE TERMINATION ACT

Mr. HUTCHINSON. Mr. President, yesterday, while millions of American households across the country were struggling to understand which of the 480 separate IRS tax forms applied to them, while they were trudging along, trying to read through the accompanying 280 supplemental explanatory IRS pamphlets, while their tax accountants and tax attorneys worked hard to keep them abreast of the more than 800,000 words which make up this country's Tax Code, and while families nervously anticipated the impending IRS deadline of April 15, which is now less than 6 weeks away, President Clinton had the audacity to call my efforts to sunset this country's incomprehensible maze that we call a Tax Code in the year 2001—irresponsible.

Following his speech, President Clinton's chief economic adviser Gene Sperling equated my bill, the Tax Code Termination Act, with ''reckless river boat gambling.'' Worse yet, President Clinton's Deputy Treasury Secretary stated, ''We have a Tax Code today that works better for Americans as they do what is crucial to them in their lives.'' He said that the Tax Code works for Americans.

No; Americans may feel they work for the Tax Code. They surely do not believe that the Tax Code works for them. In short, the President and his advisers were telling the American people in the midst of their ''tax season migraines,'' that this Tax Code works just fine. Are the American people to believe that President Clinton and his economic advisers do not see anything wrong with Americans spending a combined total of 5.4 billion hours—the equivalent of 2 full work weeks—complying with tax provisions? Are Americans to believe that their President does not see anything wrong with the Tax Code that costs this country more than $157 billion per year? Is it possible that the President and his key advisers see nothing wrong with spending $13.7 billion per year enforcing the Tax Code, yet the IRS fails to provide correct answers to taxpayers seeking assistance almost one-quarter of the time?

I think the American people will be able to decide who is being irresponsible and will be able to easily separate the ''river boat gamblers'' from the sincere legislators working to better their everyday lives.

President Clinton's criticism of the Tax Code Termination Act centers around the notion that one should not set a date to sunset a law until a new law is written and ready to replace it. Doing so, in President Clinton's eyes, would be irresponsible. Well, is it irresponsible to sunset this country's transportation programs, which spend over $23 billion per year, before a new transportation program is written and ready to be put into law? Is it irresponsible to sunset this country's higher education programs before a new law is drafted? Of course not. In fact, right now this Congress is in the midst of debating a new transportation spending program and a new higher education program for one simple reason. When these major spending bills were passed and signed into law, they contained sunset provisions which terminated these programs 5 years after they were implemented. In fact, every major spending program currently on the books contains similar sunset language.

The truth of the matter is that President Clinton doesn't mind sunsetting provisions when the law allows the Government to spend billions of dollars in taxpayers' money. The President does not mind sunsetting Head Start, doesn't mind sunsetting Pell grants or school lunches. Sunsetting only becomes irresponsible to this President when the law being sunset deals with provisions which take money from the pockets of hard-working Americans.

The Tax Code Termination Act is anything but ''irresponsible.'' This act simply sets a date certain, well into the future, when the Tax Code will need to be reauthorized, which will simply place taxes and spending on equal footing. This bill will force Congress to completely rethink how we collect hard-earned taxpayer money and, as with major spending programs, it will allow a healthy debate to ensue on the merits, effectiveness and efficiency of the law as it is currently written.

Why is the President afraid to treat taxes and spending equally? Why should sunset provisions only apply to one but not the other? Maybe it is because the President knows that this tax system cannot withstand close scrutiny—that it can't even stand cursory scrutiny. Maybe the President is afraid that Americans will feel empowered to force this Congress to rethink the amount and methods used to take their hard-earned money. Maybe the President is afraid that he will lose the power to hide tax provisions that benefit favored special-interest groups deep within this large and complex Tax Code? Finally, the President stated yesterday that the Tax Code Termination Act would create uncertainty—skillfully noting that ''uncertainty is the enemy of economic growth.'' Mr. President, is there any certainty in this system? Can one be sure that despite trying diligently to comply with this complex and incomprehensible tax system, one still won't be dragged into court and fined for failure to accurately comply with every jot and every tittle of the Tax Code? Can one be certain that they haven't overpaid or underpaid, that they haven't missed a deduction that is owed them or claimed a deduction for which they don't qualify?

No; the only thing certain about this system is that it guarantees one's rights can be trampled by an overempowered IRS and that one's economic freedom can be jeopardized by overzealous tax collectors.

While the President claims that his opposition to the Tax Code Termination Act is to protect business by ensuring them a long-term landscape on which to make major business investment decisions, most business-led tax organizations actually support our efforts to terminate this Tax Code. The National Federation of Independent Business, Citizens for a Sound Economy, and others know firsthand how many billions of dollars per year they waste trying to understand this Tax Code, much less comply with the Tax Code. They see their profits eaten up by tax lawyers and tax accountants. They know full well that the real uncertainty is in the current code, not in any distant sunset of the current code, and they know that the Tax Code Termination Act will create a clean slate on which a fairer, simpler Tax Code can be built.

I am certain that when and if President Clinton attempts to take this debate outside the beltway, he will quickly learn who is being irresponsible; he will quickly see where the American people stand on this important issue.

Finally, the Tax Code Termination Act, sponsored by myself and Senator BROWNBACK of Kansas, is currently supported by the entire Senate Republican leadership and is being cosponsored by 26 fellow Senators. I urge the President to rethink his position, and I urge my fellow Members to get behind this effort and take the first step in simplifying our Tax Code by setting a date certain that this code will expire.

It is one thing, Mr. President, to be cautious. It is one thing to be prudent. It is quite another to be controlled by timidity and frozen into inaction. As my colleagues have said, the Tax Code has had its place in history, now we need to make it a part of history. I ask my colleagues to join me in that effort.

Thank you, Mr. President. I yield the floor.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

The Senate continued with the consideration of the bill.

Mr. CHAFEE. The Senator from North Dakota wants to speak in favor of the amendment.

Mr. DORGAN. That is correct.

Mr. CHAFEE. How much time does the Senator want?

Mr. DORGAN. If the Senator will yield 10 minutes, I will try not to use all 10.

Mr. CHAFEE. That is fine, 10 minutes, from the time of the opponents.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I thank the Presiding Officer.

Mr. President, I rise today to support the Lautenberg amendment. I intend to vote for it, and I am pleased to support a piece of legislation I think will be important in saving lives in our country.

Before I do, I want to talk about three quick items. One is the amendment that has just been adopted, the McCain amendment. I would then like to talk about the Lautenberg amendment and then, finally, an amendment I am going to offer following the disposition of the Lautenberg amendment.

The McCain amendment which has been adopted now contains a provision I want to call attention to dealing with high-speed police pursuit. It is an issue I have been involved with for some long while. I care a great deal about it, and I have introduced legislation for a number of years, part of which has now been included in the McCain amendment dealing with safety.

There are in this country many instances in which high-speed police pursuits are not only necessary but virtually mandatory, and I understand that. There are other circumstances in this country, where high-speed police pursuits are inappropriate and result in the death of innocent people. Nearly 400 people a year are killed and many others are injured in high-speed police pursuits.

One ought to be able to expect all across this country, no matter where one is driving, that law enforcement jurisdictions are given good training and have good policies dealing with high-speed police pursuits. That is my intention with the legislation.

I also feel that I would like to do more. I would like to make sure that in the future, with respect to high-speed police pursuits, that we have a provision that anyone who believes they should be able to flee from law enforcement when law enforcement attempts to apprehend them will lose their vehicle and will have certain jail time. We ought to send the message to all people in this country that you are the villain in high-speed police pursuits. If you don't stop when a law enforcement officer attempts to stop you, there are going to be consequences, and significant consequences. We can save lives by that. And the McCain amendment just adopted includes my provision dealing with high-speed police pursuits and incentives for more training and uniform policies. I think that is a step forward.

Second, the Lautenberg amendment, which I am pleased to support, and I hope will have the support of a majority of Members in the U.S. Senate. I understand that some can quibble here or there about .08 or .10 or .12—this, that, or the other thing. I do not think anyone will quibble with the statement made earlier today by one of my colleagues in which he asked the question: Would you like to put your son or daughter in a car with someone who had four drinks in the last hour and has a .08 blood alcohol content?

Under current law, that person is not drunk. But is that the car you would like your son or daughter in? I think not. Mr. President, .08, I am told, relates to the blood alcohol content of a man roughly 170 pounds who has had four drinks in an hour.

In this country, we license people to drive. No one in this country should be empowered to drive and drink at the same time. It can turn an automobile into an instrument of murder and does every 30 minutes, causing someone else to die on America's roads and streets because someone decided to drink alcohol and drive.

We have had incentive programs previously dealing with drunk driving. Some have worked, some have worked a bit, some have worked well, and some have not worked at all. The Senator's amendment is very simple. The proposition of this amendment is to say that our road programs in this country are national programs. We know they are national because we come here and talk about roads being a national priority. Even the smallest, the most remote, and the least populated areas of our country have roads because those roads allow people to get from one place to another.

Yes, my State is a smaller State, and less populated, but as they move frozen shrimp and fresh fish from coast to coast, guess what? They truck that through North Dakota, and we need roads in all parts of our country to have a first-class economy. A country with a first-class economy needs good infrastructure, and that means good roads.

Because roads represent a national priority and are a national program, it seems to me perfectly logical to understand that anyone driving in this country ought to have some assurance that they are not going to run into someone coming down the other lane who is driving in a jurisdiction or a State where they are told it's OK to have .10 or .12. No one in this country should expect to meet someone at the next intersection, in the next State, or the next county where the driver is drinking. So I am going to support this amendment that calls for a national standard of .08.

Let me tell you about the other amendment I am going to offer following this amendment, which I hope my colleagues will support as well.

Mr. President, did you know there are five States in this country where you can put a fist around a bottle of whiskey and the other around the steering wheel, and you are perfectly legal? There is not one jurisdiction in America where that ought to be legal—not one city, one county, one township where it ought to be legal for anyone to get behind the wheel of a car and drink. Five States now allow that.

Over 20 States allow, if not the driver to drink, the rest of the people in the car to have a party. They can get plenty of whiskey and plenty of beer, and they can go down the road and have a great old party. Over 20 States say that is fine, as long as the driver doesn't drink, and in five of them the driver can drink as well. There is not one jurisdiction that ought to allow that.

My amendment has the same sanction as the amendment proposed by the

Senator from New Jersey. It simply says that every State in this country, because we have a national roads program, that as drivers, we can expect some uniformity in treatment across this country when we are driving up to the next intersection. We should expect that no one we will meet in this country is going to be legally empowered to drive the vehicle and drink in the same set of actions.

I will offer that on the floor. I offered it previously several years ago, about 3 years ago, and I missed having that amendment adopted by three votes—only three. I don't know how many people have died because we didn't do that, but some. I don't know their names. But some families have gotten the call, families like the wonderful family of the Senator from Ohio and others in this Chamber, the BUMPERS family—Senator BUMPERS, who several years ago gave one of the most eloquent speeches on the floor of the Senate about the tragedy in his family.

Families have gotten that call because we didn't do what we should do. We should, as a country, decide that there are certain and significant sanctions for those who drink and drive and that we can expect on a national basis that everywhere you go in America, everywhere you drive a car, you will not only have a .08 standard, but you will have some assurance that you are not going to meet at the next intersection or on the next county, State, or even township road someone who is drinking and driving.

Someone said earlier today that you have a right to drive in this country, but you ought not to have a right to drive and drink. I attended a ceremony today that the Senator from New Jersey and the Senator from Ohio attended and heard the statement by a young woman who had just lost her 9-year-old daughter in the not-too-distant past. She spoke again of the tragedy that her family experienced because someone else decided they were going to drink and drive.

To close this discussion, I want to say this. It is one thing for us to come to the floor of the Senate and talk about devoting resources, energy, and effort to try to do something about something we are not certain how to cure. This is not some mysterious illness for which we do not know the cure. We understand what causes these deaths, and we understand how to stop them.

Mothers Against Drunk Driving, God bless that organization and the people who every day in every way fight to make things better on this subject. And we have made some progress. We have made some improvement. But we can do much, much better. We are not near the standard that many of our European allies and our European neighbors have adopted on these issues, saying to people: ''Understand this about drinking and driving. If you are going to be out and you have a vehicle, you better not be drinking, because the sanctions are tough. If you get picked up for drunk driving, you are in trouble.''

That is what this country ought to say as well. Have a designated driver, take a taxi, do any range of things, but understand as a country that we take this seriously and we intend to do some things on the floor of this Senate in this piece of legislation to say to the American people: We care about this issue, and we can save lives in a thoughtful manner without abridging anyone else's right.

I do not know who said it today—perhaps it was the Senator from Ohio—that you have a right to get drunk, I guess, in this country, but you do not have a right to get drunk and drive. That ought to be a message from the .08 amendment, and I hope from my amendment that follows, that this country says that to everyone living here and everyone intending to drive in the future. Mr. President, I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I have said several times tonight that the opportunity for those who wish to speak against this amendment is now. No one showed up to speak against the amendment. Therefore, I have been yielding time to the proponents of the amendment. We have the Senator from Washington who wishes to speak in support of the amendment for about 10 minutes, and then after the conclusion of that, I will yield an additional 3 or 4 minutes to the Senator from Ohio. Then it is my intention to close up shop here and put the Senate out.

So, I do not know how much time we have left.

How much time do I have left?

The PRESIDING OFFICER. The Senator has 31 minutes 30 seconds.

Mr. CHAFEE. So, anybody who wants to speak against the amendment, now is the time, or they will be relegated to tomorrow where there will be half an hour to speak against it. So I yield the Senator from Washington such time as he needs, maybe 10 minutes.

Mr. GORTON. Yes.

Mr. CHAFEE. Ten minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, last week, when I was first informed of the proposal by the Senator from New Jersey, I was torn. I agreed totally with his philosophy, but I also have a great deal of respect for the States and for their legislatures that, of course, have full jurisdiction over this problem. Many States have acted, and other States are in the process of acting.

Over the weekend, however, I ceased to be pulled in two separate directions on this subject by a remarkable article directly on point in the Sunday Seattle Times.

I would like to share with my colleagues some of that article. Then at the end, I will place the entire news story in the RECORD. The news story was on a great success story in American society, the reduction in automobile deaths. While it deals with the State of Washington, I am certain that it is of relatively universal application, to a greater or lesser extent, all across the United States.

An early paragraph in the article reads:

> The numbers are clear: The state's roads are not just a little safer in the 1990s than in decades past, they're much safer. You're a lot less likely to be in an accident than in earlier times. And if you are in one, you're less likely to be seriously injured or killed.
>
> Last year, there were 1.3 deaths for every 100 million miles driven on Washington's roads and highways. In 1953, as far back as comparable statistics are available, the figure was four times higher—at 5.1 deaths per 100 million miles.

Incidentally, Mr. President, 1953 was the year in which I moved to the State of Washington straight out of school. So our roads are now four times safer than they were in 1953.

The article goes on to speak about causes for this remarkable social success, and says:

> Dr. Fred Rivara, director of Harborview Medical Center's Injury Prevention and Research Center, says the long-term improvement is ''clearly due to a combination of a lot of factors''—safer cars, high seat-belt use, air bags, a gradual reduction in drunken driving, construction of interstate highways and improved trauma care for the seriously injured.
>
> Moffat, of the Traffic Safety Commission, identifies freeway construction as ''the single most significant safety factor'' because interstates are roughly three times as safe as other roads and city streets. . . .

They go on to say—and it is relevant directly to the amendment of the Senator from New Jersey—

> With the freeways built, the traffic-safety focus shifted to drunken driving and the simple defensive measure of encouraging drivers to use their seatbelts.
>
> ''Organizations such as Mothers Against Drunk Driving deserve a lot of credit for bringing that about,'' says Rivara. ''They succeeded in changing public attitudes about drunk driving.''
>
> One result has been a renewed effort in Olympia to pass tougher drunken-driving laws. One bill would lower the blood-alcohol concentration for driving under the influence to 0.08 percent from 0.10 percent. . . .

Precisely what the Senator from New Jersey proposes.

> The state's death rate essentially has remained at its record-low level for the past six years. Further improvement will require a renewed focus on drunken drivers and seatbelt use, Moffat says, because at this stage ''belts and booze are the secrets of success.''
>
> Figures from the National Highway Transportation Safety Administration clearly indicate part of the problem. Nationwide, alcohol played a role in about 41 percent of traffic deaths in 1996. . . . In California, the figure was 40 percent and in Oregon, 42 percent.
>
> But in Washington, alcohol was involved in fully half of all traffic fatalities. Furthermore, NHTSA figures show that the influence of alcohol in traffic deaths hasn't dropped nearly as much in Washington as it has nationally or in California and Oregon.
>
> Moffat, a Seattle policeman for 25 years before moving to the Traffic Safety Commission in 1995, is convinced that tougher

drunken-driving laws are the key to safer roads. Oregon and California both have them, and they work, he says. Moffat estimates that similar legislation here would cut fatalities by at least 10 percent.

''What that means in real terms is 70 fewer deaths'' each year, he says.

Now, Mr. President, that, in one State, is what we are discussing here in this amendment. In the State of Washington, with roughly 2 percent of the population of the United States of America, approximately 70 fewer traffic deaths per year.

Now, that figure may be smaller in some States that already have the .08 standard. I suspect it may be larger in those whose drunken-driving laws are less significantly enforced.

But, Mr. President, this brings it down to the basic level of individual deaths in individual parts of our country. I found that article to be overwhelmingly persuasive. I trust that the legislature of my State will in fact pass a law which is now halfway through the legislative process. But to encourage strongly, to encourage every State to do exactly the same thing is the key to fewer traffic deaths.

We are not dealing with unknowns here. We are not dealing with predictions. We are dealing with now a history, a history of more than 40 years of keeping track of traffic deaths in my State, a four-times reduction in traffic deaths. And now we have an opportunity to reduce them by another 10 percent, perhaps more than 10 percent through this action.

It is, Mr. President, action that we ought to take and ought to take promptly.

Mr. President, I ask unanimous consent to have the entire news article printed in the RECORD.

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

[From the Seattle Times, March 1, 1998]

STATE'S ROADS ARE THE SAFEST EVER

(By Tom Brown)

Forget road rage, rampaging sport-utility vehicles and tailgating semis.

Despite those and two more-serious road hazards—drunken drivers and failure to buckle up—driving in Washington is safer than it has ever been.

The numbers are clear: The state's roads are not just a little safer in the 1990s than in decades past, they're much safer. You're a lot less likely to be in an accident than in earlier times. And if you are in one, you're less likely to be seriously injured or killed.

''When we're frustrated by some civic problems, this is one where we're actually making progress,'' says John Moffat, director of the Washington Traffic Safety Commission.

This progress gets overlooked amid reports of pistol-waving road-ragers and horrific accidents such as one last month in Bothell in which three people died when a van was crushed between two trucks and exploded in flames.

Last year, there were 1.3 deaths for every 100 million miles driven on Washington's roads and highways. In 1953, as far back as comparable statistics are available, the figure was four times higher—at 5.1 deaths per 100 million miles.

Despite a big increase in population and a jump in the number of miles driven in the state, the actual number of people who die annually in traffic accidents has declined over the past 20 years.

The last time more than 1,000 people died on Washington roads was in 1979. Last year, there were 663 traffic deaths, even though 73 percent more miles were traveled on state roads than in 1979.

One of the most striking aspects of the traffic record is that the major measures of safety—death rate, serious-injury rate and collision rate—have all either declined or held steady despite worsening congestion and the consequent driver frustration that leads to occasional violence.

In the past decade, while the central Puget Sound region was establishing its reputation as one of the most-congested driving areas in the country, both the state's traffic-death rate and serious-injury rate have declined by about 50 percent.

Dr. Fred Rivara, director of Haborview Medical Center's Injury Prevention and Research Center, says the long-term improvement is ''clearly due to a combination of a lot of factors''—safer cars, high seat-belt use, air bags, a gradual reduction in drunken driving, construction of interstate highways and improved trauma care for the seriously injured.

Moffat, of the Traffic Safety Commission, identifies freeway construction as ''the single most significant safety factor'' because interstates are roughly three times as safe as other roads and city streets. The first major decline in the state's traffic-death rate coincided with the replacement of Highway 99 by Interstate 5 as the state's north-south arterial in the 1960s.

More recently, the new Interstate 90 Floating Bridge also has helped cut the death toll, Moffat says. The original bridge across Lake Washington, which sank in 1990, had an awkward bulge in the middle where it opened occasionally for shipping. It also had reversible lanes during rush hours.

These features produced six or seven deaths a year, Moffat says, while traffic deaths on I–90's two new bridges are rare. He estimates the new bridges, alone, have saved about 70 lives in the past decade.

With the freeways built, the traffic-safety focus shifted to drunken driving and the simple defensive measure of encouraging drivers to use their seat belts.

The first major legislative shots in the state's war on drunken driving were fired in 1979, when traffic deaths peaked at 1,034. Since then, the death rate has plummeted by nearly two-thirds, from 3.6 to 1.3 per 100 million miles.

''Organizations such as Mothers Against Drunk Driving deserve a lot of credit for bringing that about,'' says Rivara. ''They succeeded in changing public attitudes about drunk driving.''

Celebrated cases also have galvanized people to act. One such case was the death last year of Mary Johnsen of Issaquah, who was struck and killed by a van driven by a repeat drunken driver while walking along a residential street with her husband.

''I don't know that Mary Johnsen's death was inherently any more tragic than any of the 300 other drunk-driving deaths last year, but it touched a lot of people,'' says Moffat.

One result has been a renewed effort in Olympia to pass tougher drunken-driving laws. One bill would lower the blood-alcohol concentration for driving under the influence to 0.08 percent from 0.10 percent. Another would allow authorities to impound and forfeit the vehicles of drunken drivers.

The state's death rate essentially has remained at its record-low level for the past six years. Further improvement will require a renewed focus on drunken drivers and seat-belt use, Moffat says, because at this state ''belts and booze are the secrets to success.''

Figures from the National Highway Transportation Safety Administration (NHTSA) clearly indicate part of the problem. Nationwide, alcohol played a rule in about 41 percent of traffic deaths in 1996 (1997 figures are not yet available). In California, the figure was 40 percent and in Oregon, 42 percent.

But in Washington, alcohol was involved in fully half of all traffic fatalities. Further more, NHTSA figures show that the influence of alcohol in traffic deaths hasn't dropped nearly as much in Washington as it has nationally or in California and Oregon.

Moffat, a Seattle policeman for 25 years before moving to the Traffic Safety Commission in 1995, is convinced that tougher drunken-driving laws are the key to safer roads. Oregon and California both have them, and they work, he says. Moffat estimates that similar legislation here would cut fatalities by at least 10 percent.

''What that means in real terms is 70 fewer deaths'' each year, he says.

MORE OF US USE SEAT BELTS

Despite more drunks on the road, Washington's highway-death rate is substantially below the national average, which was 1.7 per 100 million miles in 1996. That's because more drivers here use their seat belts—about 85 percent, Moffat says, compared with an average of about 60 percent nationally, a figure that varies widely from state to state.

In Washington, of those who die in auto accidents, only 35 or 40 percent have their seat belts on.

''Some accidents are going to kill anyway,'' Moffat says. But in a potentially fatal crash—defined as two vehicles colliding head-on at 35 mph or an auto hitting a solid object at 60 mph—seat belts raise the chances of survival to 50 percent.

Moffat concludes that of the 60 percent or so who die unbelted each year, half could save themselves with this simple, two-second maneuver. That would be perhaps another 150 lives saved.

But as Rivara notes, those most at risk for fatal accidents—the intoxicated and young, male drivers—are the least likely to use seat belts.

As for road rage, it's no laughing matter—particularly for those who have been shot at or otherwise threatened. But statistically, it is a minuscule contributor to highway-safety problems, and Moffat suggests that residents keep their focus on more fundamental concerns.

''When I look at 330 drunken-driving deaths, that is a tremendous problem,'' he says. ''Road rage doesn't even raise the needle.''

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, does the Senator from Ohio wish a few minutes. I say to the Senator from Ohio, how much time would you like?

Mr. DEWINE. Ten minutes.

Mr. CHAFEE. All right, fine.

The PRESIDING OFFICER. The Senator from the great State of Ohio is recognized for 10 minutes.

Mr. DEWINE. I thank my colleague and thank the Chair.

This amendment has received a great deal of attention from the editorial boards across this country. I would like just to read excerpts from several of them because I think their reasoning is quite good.

Let me cite first the Austin American Statesman, October 30:

Let's say it one more time: DWI laws don't have a thing to do with prohibition,

partying, or Puritanism. They aren't intended to interfere with anyone's right to drink alcohol socially or antisocially, responsibly or irresponsibly, in vast or moderate quantities. The law just asks drinkers not to operate heavy machinery on the States' roads and highways while under the influence of alcohol.

The Baltimore Sun:

You're driving on the beltway. The motorist in the next lane consumed four beers during the past hour. To paraphrase Clint Eastwood, ''Do you feel lucky?'' Amazingly, that tipsy driver may be within his legal rights.

And they end up:

Four drinks in one State makes you no less drunk than four drinks in another State. The abundant evidence justifies a national response.

The Omaha World-Herald:

Yes to a national drunk driving law. Congress uses the threat of withheld funds too often, in our opinion, to force its will upon the States. In this case, however, the States would merely be required to set an intoxication standard that reflects research on how alcohol affects driving.

That is the Omaha World-Herald, October 29.

The Wall Street Journal said this:

Safe alcohol levels should be set by health experts, not the lobby for Hooters and Harrah's. The Lautenberg-DeWine amendment isn't a drive toward prohibition, but an uphill push toward health consensus.

The Toledo Blade:

Complaints from the beverage industry that the new limits would target social drinkers and not alcoholics are ridiculous and dangerous. All that matters is whether the person behind the wheel has had too much to drink. Whether he or she is a social drinker is irrelevant.

Finally, New York Newsday:

It should be obvious that cracking down on drunk driving is an urgent matter of health and safety. The attack is not against drinking; it's against drinking and driving.

Mr. President, my colleagues have said it very, very well. My colleague from North Dakota a few moments ago said it well. He says it is not complicated. It is not complicated how you reduce auto fatalities. This is an easy way to save lives. And this is a way that will save lives.

At 10:30 tomorrow morning we are going to have a chance to do something very simple. We are going to have the chance to come to this floor and cast a yes vote on this amendment. It is one time when we will know the consequences of our act. And the consequence of that act, if we pass this, if it becomes law, will be simply this: Fewer families will have their families shattered, fewer families will have their lives changed forever. That is what the loss of a child or loss of a mother or father to drunk driving does—it changes your life forever.

We will save some families from that tragedy. We will never know who they are. They will never know. But we can be guaranteed that we will have done that and done that much tomorrow morning. This is a very rational and reasonable proposal. I say that because it sets the standard at .08.

I will repeat something I said a moment ago—and I am going to continue to state it because I think it is so important —and that is: No one, no expert who has looked at this believes that someone who tests .08 has not had their driving ability appreciably impaired. No one who has looked at this thinks that someone who tests .08 should be behind the wheel of a car. If any of my colleagues who might be listening doubt that, tonight or early tomorrow morning—we all know police officers; we all know people who have been in emergency rooms; we all know people who have seen DUIs and who know who they tested—pick up the phone and call one of your police officers.

Pick up the phone and call a member of the highway patrol who may have picked up someone, who has picked up probably dozens of people who have been drinking and driving, and ask them if, in their professional opinion, they think someone who tests .08 or above has any business being behind the wheel of a car. I will guarantee you, the answer will be unanimous.

The fact is, the more someone knows about the subject, the more adamant they will be about that. I became involved in this issue a number of years ago when I was an assistant county prosecuting attorney. One of my jobs was to prosecute DUI—DWI cases we used to call them in those days.

I can tell you from my own experience, someone who tests .08—and I have seen the videotape, as they say. I have seen the replays. I have seen the tapes that are taken right before the person takes the test. And I have compared those videotapes where you can see the person staggering, you can see the person's speech slurred, you can see their coordination impaired. I compared that with the tests. I will tell you from my own experience in observing, a person at .08 absolutely, no doubt about it, should not be behind the wheel.

Look what other countries have done. Senator LAUTENBERG showed the chart. Canada, Great Britain, Australia, Austria, all at .08 or below. This is a rational and reasonable thing to do. It is reasonable, as Ronald Reagan said, to have some minimum national standards that assure highway safety.

We live in a country where we get in a car and we think nothing of crossing one, two, three, four, five State lines, and we do it literally all the time. There ought to be some national standard, some floor, some assurance when you put your child in a car, when you get in the car with your wife and your loved ones, some assurance that whatever State you are in, wherever you are driving, that level is .08. That is a rational floor. It is a rational basis.

Again, despite all the scientific evidence, despite all the arguments, still there are some who would say this bill is an attack against social drinkers; this amendment will mean if I have two beers and a pizza I will not be able to drive. That is simply not true. All the scientific data, all the tests, all the anecdotal information tells us that is simply not true.

Let me again go back and repeat what the scientific data shows. It shows that when a male weighing 160 pounds has four drinks in an hour—it takes four drinks on an empty stomach in an hour for that adult male at 160 pounds to reach the .08 level. I don't think anyone believes that person should be behind the wheel, and I don't think there is anyone in this Chamber who will turn their child over to that person.

Mr. President, again we will have the opportunity tomorrow to save lives. I urge my colleagues to cast a ''yes'' vote on the Lautenberg-DeWine amendment. It will, in fact, save lives.

I yield the floor.

Mr. CHAFEE. Now, Mr. President, we have made valiant efforts to get the opponents of this measure here. We have given them every chance in the world. They have not shown up. Any opponents who want to speak will have half an hour tomorrow to speak.

I therefore propose that we close shop here.

MORNING BUSINESS

Mr. CHAFEE. Mr. President, I ask unanimous consent there now be a period of morning business with Senators permitted to speak for up to 5 minutes each.

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

THE GOVERNMENT SECRECY ACT

Mr. LOTT. Mr. President, I am pleased to join with the distinguished Minority Leader, the distinguished Chairman of the Foreign Relations Committee and with the distinguished Senator from New York, Mr. MOYNIHAN. Both Senator MOYNIHAN and Senator HELMS served with distinction on the Commission on Protecting and Reducing Government Secrecy. They are to be congratulated for their efforts. Senator MOYNIHAN and I have spoken repeatedly about his commitment to declassifying information while protecting legitimate secrets.

S. 712, the Government Secrecy Act of 1997, is a complex piece of legislation. Chairman THOMPSON has already held a hearing in the Governmental Affairs Committee. Other committees have legitimate and appropriate concerns about elements of this legislation, including Foreign Relations, Judiciary, Armed Services and the Select Committee on Intelligence on which I serve as an ex officio member. Their concerns should be addressed as we move through the legislative process.

I also have a number of concerns that I hope are addressed as the committees consider this legislation. I am concerned about allowing judicial review of executive branch classification decisions. I do not think it is wise or necessary to allow judges to second-guess

classification decisions. I am concerned about cost—the cost of classification and the cost of declassification. I hope we can arrive at a legislative outcome that reduces the cost of both. I am concerned about creating a new layer of bureaucracy in an already overly bureaucratic process. It is the agencies themselves that should retain the authority to declassify documents. I am most concerned that we give priority to protecting intelligence sources and methods rather than to a vague and subjective ''public interest'' test. We need to ensure that originating agencies are expressly involved in any declassification process to avoid the mistakes that have recently been made. I also hope there is adequate authority for agencies to meet their legitimate budgetary and source-protection concerns.

I am confident that the deliberative process of committee consideration will address my concerns and the legitimate concerns expressed by the Defense Department, the intelligence community, and others. I know that the Director of Central Intelligence testified last month that he wants to sit down with Senator MOYNIHAN and address those concerns in such a way that we protect sources and methods while opening more old intelligence files to the serious researcher and the general public. I hope that this process of committee consideration can be completed this spring and that we can expeditiously schedule floor time for legislation addressing this important issue.

I want to close with a special tribute to Senator MOYNIHAN's diligence in this effort. He is not just motivated by the fact that too much information is classified and is kept secret too long. He is also motivated by a scholar's desire to know the truth, and by the historian's desire to fully explain past events. I salute his efforts and share his concerns. Openness is important in our democracy. In the words of the Secrecy Commission, chaired by Senator MOYNIHAN, ''Secrecy is a form of government regulation . . . some secrecy is vital to save lives, bring miscreants to justice, protect national security, and engage in effective diplomacy . . . National Security will continue to be the first of our national concerns, but we also need to develop methods for the treatment of government information that better serve, not undermine, this objective.'' In the words of Chairman MOYNIHAN himself: ''It is time also to assert certain American fundamentals, foremost of which is the right to know what government is doing, and the corresponding ability to judge its performance.'' I could not agree more.

I look forward to continuing to work with Senator MOYNIHAN and others in enacting legislation on government secrecy this year.

Mr. DASCHLE. I thank the Majority Leader for raising this important issue and am pleased to join him as a cosponsor of the Government Secrecy Act. I look forward to working with him, the other co-sponsors of the bill, and the relevant committees to move this legislation early in this session. Although some modifications to this legislation may be necessary, I think we can all agree that a democratic government depends on an informed public. This legislation will greatly improve access to government information. By reducing the number of secrets, this legislation will enhance the public's access while at the same time enabling the government to better protect information which is truly sensitive.

As the Majority Leader mentioned, for the past five decades, the secrecy system has been governed by a series of six Executive Orders, none of which has created a stable system that protects only that information deemed vital to the national security of the United States.

Mr. MOYNIHAN. I thank the two leaders for their support and welcome them to an effort that began in the 103rd Congress with the adoption of P.L. 103–236, establishing the Commission on Protecting and Reducing Government Secrecy. This bi-partisan commission, which I had the privilege of chairing, and on which Senator HELMS played an important role, issued its unanimous report last March. The Commission found that the current system neither protects nor releases national security information particularly well.

Mr. HELMS. Mr. President, I thank the distinguished leaders, but I am also deeply grateful to the able senior Senator from New York. For too long the government has classified information which has no business being classified. When I came to the Senate, I was a member of the Armed Services Committee and I remember that I went to many classified briefings, only to be informed, in great detail, of everything that was in the New York Times and Washington Post that morning. The most frustrating thing was that we could not talk about the information from those meetings because it was classified.

Mr. MOYNIHAN. The central fact is that we live today in an information age. Open sources give us the vast majority of what we need to know in order to make intelligent decisions. Analysis, far more than secrecy, is the key to security. Decisions made by people at ease with disagreement and ambiguity and tentativeness. Decisions made by those who understand how to exploit the wealth and diversity of publicly available information, who no longer simply assume that clandestine collection, i.e. ''stealing secrets'', equates with greater intelligence.

We are not going to put an end to secrecy. It is at times legitimate and necessary. But a culture of secrecy need not remain the norm in American government as regards national security. It is possible to conceive that a competing culture of openness might develop which could assert and demonstrate greater efficiency.

Mr. HELMS. The Commission by law had two goals: to study how to protect the important government secrets while simultaneously reducing the enormous amount of classified documents and materials. We began our deliberations with the premise that government secrecy is a form of regulation, and like all regulations, should be used sparingly. But I feel obliged to reiterate and emphasize the obvious. The protection of true national security information remains vital to the well-being and security of the United States.

Mr. MOYNIHAN. I agree with the Senator. One of the important recommendations of the Commission was a proposal for a statute establishing a general classification regime and creating a national declassification center. The four Congressional members of the Commission, Representatives COMBEST and HAMILTON, Senator HELMS, and I, proposed just such a statute last May, the Government Secrecy Act, S.712.

Mr. DASCHLE. In deciding that we needed to design a better, more rational classification system, I was moved by the fact that under the current system we are classifying an enormous amount of information each and every year. For example, in 1996 alone, the Federal Government created 386,562 Top Secret, 3,467,856 Secret, and 1,830,044 Confidential items: a total of 5,789,625 classification actions.

Mr. MOYNIHAN. Last year the number of officials with the authority to classify documents originally decreased by 959 to 4,420. Presumably, this should reduce the number of classifications, but the number of classifications increased by nearly two-thirds, over 5.7 million. There cannot be 5.7 million secrets a year which, if revealed, would cause ''damage'' to the national security. To paraphrase Justice Potter Stewart's decision regarding the Pentagon Papers, when everything is secret, nothing is secret.

Mr. DASCHLE. In addition to costing the taxpayer billions annually, this excessive government secrecy leads to a host of other problems. Secrecy hampers the exchange of information within the government, leads to public mistrust, and makes leaking classified information the norm.

I think it would be useful at this point to note that this legislation will not require the disclosure of a single document or fact deemed vital to our national security. Instead, this legislation will prevent the government from stamping ''Classified'' on information that is not sensitive.

The Clinton administration has made significant reforms to open government information. For example, last month, Secretary of Energy Federico Pena announced that he would seek to end the practice that considered all atomic weapons information as ''born

classified'' and instead would only classify ''where there is a compelling national security interest''. The Department of Energy is to be commended for its efforts in recent years to make available information concerning nuclear tests conducted in this country and their effects on human health and the environment. This is a useful step. However, as the statistics I cited above for 1996 make clear, there is still much more to be done.

Mr. MOYNIHAN. Such efforts are welcome and should be encouraged. However, to ensure that they are carried out across the government and in a sustained manner, our Commission proposed that legislation be adopted.

Mr. DASCHLE. Greater Congressional oversight of classification policy is long overdue. For too long, classification and declassification policy have been both developed and implemented by bureaucrats, often anonymously. Consideration of the Government Secrecy Act, S.712, will promote an open discussion of the advantages and disadvantages of secrecy, a discussion which is not limited to the views of those who are charged with implementing classification policy.

Mr. MOYNIHAN. If the Report of the Commission on Protecting and Reducing Government Secrecy is to serve any large purpose, it is to introduce the public to the thought that secrecy is a mode of regulation. In truth, it is the ultimate mode, for the citizen does not even know that he or she is being regulated. Normal regulation concerns how citizens must behave, and so regulations are widely promulgated. Secrecy, by contrast, concerns what citizens may know. The citizen is not told what may not be known.

With the arrival of the New Deal agencies in the 1930s, it became clear that public regulation needed to be made more accessible to the public. In 1935, for example, the Federal Register began publication. Thereafter all public regulations were published and accessible. In 1946, the Administrative Procedure Act established procedures by which the citizen can question and even litigate regulation. In 1966, the Freedom of Information Act, technically an amendment to the original 1946 Act, provided citizens yet more access to government files.

The Administrative Procedure Act brought some order and accountability to the flood of government regulations that at time bids fare to overwhelm us. Even so, ''over-regulation'' is a continuing theme in American life, as in most modern administrative states. Secrecy would be such an issue, save that secrecy is secret. Make no mistake, however. It is a parallel regulatory regime with a far greater potential for damage if it malfunctions.

Mr. DASCHLE. One of the most striking aspects of the Commission report is the lack of Congressional involvement in the secrecy system. Apart from the Espionage Act of 1917 and the Atomic Energy Act, which only applies to atomic secrets, there are few statutes dealing with these issues. If secrecy is a form of regulation, then this legislation will serve a similar purpose to the Administrative Procedure Act for the secrecy system.

And there has been little Congressional oversight. I believe the Commission on Protecting and Reducing Government Secrecy, which Senator MOYNIHAN chaired, is only the second statutory examination of the secrecy system.

Mr. MOYNIHAN. That is correct—there has been only one other statutory inquiry into this subject. This was the Commission on Government Security, established in 1955 by the 84th Congress, known as the Wright Commission for its Chairman, Lloyd Wright, past President of the American Bar Association. This was a distinguished bipartisan body, which included in its membership Senators John C. Stennis of Mississippi and Norris Cotton of New Hampshire, along with Representatives William M. McCulloch of Ohio and Francis E. Walter of Pennsylvania.

The Commission report, issued 40 years ago, is a document of careful balance and great detail. The Commission was concerned with classification as a cost. Free inquiry, like free markets, is the most efficient way to get good results. The Commission set forth a great many proposals ranging from Atomic Energy to Passport Security, but its legislative proposals were concise: the proposal to outlaw by statute ''disclosures of classified information. . . by persons outside as well as within the Government'' was quickly perceived as prior restraint: press censorship. The response was swift and predictable. The recommendation was criticized strongly in articles and editorials in a variety of newspapers, notably by James Reston. And the Commission's recommendations were dropped.

Mr. DASCHLE. The Government Secrecy Commission has learned from history and issued much more prudent proposals. Some individuals have raised constitutional concerns regarding this legislation, but the Government Secrecy Act (S. 712) respects the President's constitutional prerogatives by maintaining the authority of the President to establish categories of classified information and procedures for classifying information. The precedent for Congressional action has already been established by the Atomic Energy Act, the Espionage Act, and the National Security Act.

Mr. MOYNIHAN. The Government Secrecy Act will provide a framework for our secrecy system which can limit the number of documents initially classified and significantly reduce the backlog of already classified documents. It sets standards for declassification whereby information may not remain classified for longer than 10 years unless the head of the agency which created the information certifies to the President that the information requires continued protection. Information not declassified within 10 years may not remain classified for more than 30 years without another certification. It requires that a balancing test be established in making classification and declassification decisions so that officials must weigh the benefit from public disclosure of information against the need for initial or continued protection of the information under the classification system.

The bill also establishes a national declassification center to coordinate and oversee the declassification policies and practices of the Federal Government to ensure that declassification is efficient, cost-effective, and consistent.

I thank the Majority Leader for raising his concerns. It is my sincere intention to work with the Majority Leader and other interested Senators to perfect this legislation, so that we might pass it in the coming months.

Mr. SHELBY. Mr. President, I rise because I have some grave concerns with the current form of the Government Secrecy Act of 1997 (S. 712) and I am pleased that the distinguished Majority Leader and my distinguished colleagues are open to a discussion of this legislation with the goal of establishing the basic principles on which Federal classification and declassification programs are to be based. More stability, reliability, and consistency are needed in the government's approach to both the protection—and I emphasize protection—as well as the release of classified information to the public. The recent compromise of sensitive information through rushed declassification highlights the need for more oversight and accountability of the declassification process. I have serious concerns that S. 712 does not adequately protect sensitive intelligence sources and methods and will unnecessarily cost the taxpayers many hundreds of millions of dollars.

I support the Commission on Government Secrecy's finding that the public has a right of access to the large majority of government-held information and that, in general, too much information is classified and kept secret too long. However, secrecy is essential to intelligence, and U.S. security has depended and still depends on secrecy to succeed. We must proceed with caution in our commitment to make more classified information available to the public. In this regard, I am concerned that some provisions of S. 712 erode the Director of Central Intelligence's statutory authority and ability to protect intelligence sources and methods.

Further, the bill will cost untold millions to declassify and release the tremendous amount of currently classified material in a way that still protects the most sensitive sources and methods. For example, DOD reports to have over 1.2 billion pages of 25 year and older material of historical value that requires review for declassification. The current estimated average cost of

review is $1 a page. This means that the cost of declassification of this group of documents alone will be over $1.2 billion—that's billion with a ''B'', Mr. President.

I am also concerned that the so-called Declassification Center created in S. 712 will not correct the problems facing the current declassification system. It will end up being another costly and unnecessary government bureaucracy. Instead, to promote greater accountability, I propose that we create a more effective and enhanced Executive branch oversight function for classification and declassification programs. In addition, I believe sanctions for unauthorized disclosures should be added to the bill. We need to consider new and unique categories of secrecy for our most sensitive intelligence operations—perhaps to include very serious penalties for public discussion of these activities.

Finally, I am troubled that the bill leaves open the possibility of judicial review of Executive branch classification decisions. This will undoubtedly lead to costly legal challenges that could result in judicial second-guessing of the Commander-in-Chief on national security matters.

I look forward to addressing these and other concerns in our Committee. Our collective goal should be to craft legislation that establishes a sensible framework for a classification and declassification system that continues to protect sources and methods while improving oversight and accountability at an affordable cost.

Thank you, Mr. President.

Mr. KERREY. Mr. President, for Americans government secrecy is a paradox. In a democracy, it's an unusual action for us to decide to keep something secret from the public, because it's their government. What we do is for the people. It's carried out in their name. So it's unusual to do the public's business in secret.

There is only one legitimate reason for our government to keep something secret from its citizens: To keep America safe. As Vice Chairman of the Senate Select Committee on Intelligence, I have been exposed to many things that, if made public, would threaten the security of our citizens and our nation. But I have also seen valuable information unnecessarily kept from the public view. Which is why I support this effort to change the way our government classifies and declassifies its information.

Secrecy is the exception, not the rule, in these matters for a number of reasons. The first and foremost is that this is government of, by and for the people. The second stems from that old adage ''sunshine is the best disinfectant''. We do a better job in the open, where our ideas and actions are subject to the test of scrutiny, criticism and feedback, than we do in secret. And third, because information we gather belongs to the people, we should make sure information they can use—in their own lives, in their own businesses, and, most important, in making decisions as citizens in a democracy—is provided to them when we can make it available without compromising our safety.

We make the unusual decision to keep things secret for a reason: Because those secrets help to keep Americans safe. Our government classifies information to help protect our citizens and preserve the security of our nation. When the Director of Central Intelligence goes to the President or to Congress to tell us of the threats our nation faces, he can do so because there are men and women around the globe risking their lives to provide our nation's leaders with the information they need to protect our country. Whether the intelligence deals with foreign leaders, terrorists, narcotics traffickers, or military troop movements, our government needs to keep certain information secret or our nation's security will suffer.

Yet much of the information on foreign countries collected by our Intelligence Community can and should be shared with the American people. With the growth of open source information and widespread availability of information technology, the American public is also increasingly a consumer of intelligence. We live in a very complex world, with intertwining relationships between nations shaped by history and culture. It is difficult for policymakers—those of us who study foreign policy, who have access to classified information and analysis, and who receive detailed government briefings—to get the information we need for an informed view on foreign policy issues. Our citizens have an even more limited amount of information available to help them understand what occurs outside our nation's border. Which is why I believe the more information the American public has with which to understand foreign policy the better.

Mr. President, we need to continue to protect ''sources and methods'', a term of art which refers to the people working to collect intelligence and the means by which they do so. Yet, when we acquire information whose release will not threaten sources and methods, or have information so dated that the people and means used to collect it are no longer in jeopardy, the government should release this information to the public.

We must act this year to reverse a fifty year trend and reduce government secrecy, including intelligence secrecy. The classification system has been regulated by executive order for five decades, with new executive orders contradicting previous ones and producing new costs for all agencies involved. What is or is not a secret should not be subject to a change in political leadership. Congress should place in statute the concept of what is or is not classified information, and provide general standards for classifying and declassifying information.

Mr. President, Congress bears some of the responsibility for the status of our nation's classification policy. The Commission on Protecting and Reducing Government Secrecy was not able to find a single example of a congressional hearing on the issue of executive branch secrecy policy. At the very least, Congress needs to improve its oversight of this issue. As part of this effort, the Senate Select Committee on Intelligence is scheduled to hold a hearing on this issue later this year.

Senators MOYNIHAN and HELMS have shown great leadership in addressing the issue of governmental secrecy. Their work on the Secrecy Commission has helped provide the Senate with the necessary context and analysis of government secrecy we need to address this issue. Their legislation S. 712, the Government Secrecy Act of 1997, goes a long way towards outlining a balanced government policy which protects the most sensitive information while allowing the public access to as much information as possible.

In my discussions with Director of Central Intelligence George Tenet, I have learned that the Intelligence Community does have concerns with the current version of S. 712. The CIA's concerns include their desire that the originator of classified information be in charge of its declassification, and that the classification and declassification process not be subject to judicial review. I look forward to working with Senators HELMS and MOYNIHAN, with Director Tenet, and the Administration to develop legislative language which meets the twin goals of keeping America safe and ensuring our government responds to the needs of its citizens for information.

Because the Department of Defense and the Central Intelligence Agency are responsible for the vast majority of information that requires classification, I believe the committees responsible for oversight of these entities—the Senate Armed Services Committee and the Senate Select Committee on Intelligence—should have the opportunity to review S. 712. I hope that such a sequential referral can be arranged.

Mr. President, we seek legislation that is in balance. We seek secrecy legislation which protects the safety of our citizens and the security of our nation, but also ensures that our government's policies, actions, and information will be as open as possible to its citizens. We must help keep America safe, while also assuring that our actions truly reflect those of a government of, by and for the people. I look forward to the challenge. I yield the floor.

Mr. THOMPSON. Mr. President, I appreciate the attention being given to the Government Secrecy Act, S. 712, by Senator LOTT and Senator DASCHLE. I also wish to commend Senators MOYNIHAN and HELMS for the hard work they have put into this issue as Senate members of the Commission on Protection and Reducing Government Secrecy.

To review the entire secrecy system, Congress established the Secrecy Commission in 1994. Last year, the Commission issued its final report. The Governmental Affairs Committee held a hearing on the Commission's recommendations when they were first issued. Among the recommendations of the Commission was establishing a statutory basis for our secrecy system. Apart from nuclear secrets, there has never been a coordinated statutory basis for establishing and maintaining government secrets. Consequently, there is little coordination among agencies on how information is determined to be secret, little accountability among classifying officials, and little Congressional oversight of the government's secrecy activities.

The Commission also described how the secrecy system functions as a form of government regulation, imposing significant costs on the government and the private sector. It is time to begin reviewing these costs and identify which secrets really need to be kept and which do not. Like other areas of government regulation, we need to inject a cost/benefit analysis into the process to be sure that those secrets we do keep are worth the cost.

The Government Secrecy Act is an issue of good government reform that needs consideration by Congress. I intend to work with Senator GLENN, the Ranking Member of the Governmental Affairs Committee, to report an amended S. 712 very soon. The United States needs a secrecy system that does a better job of identifying those secrets which truly must be kept, and which then can truly keep them secret.

Mr. GLENN. Mr. President, I concur that this is an important issue that our Committee takes very seriously. We held a hearing on the Commission's report last year, and I know that the Chairman has wanted to return to this matter this year.

The question of establishing a statutory framework for classification and declassification has long been a matter of debate. Our own committee held extensive hearings on this subject in 1973 and 1974.

The current system is governed by Presidential executive order, and, as the Majority Leader noted, this has led over time to inconsistencies in policies and procedures. Some have questioned, however, whether legislation is needed. I believe that it is proper for Congress to legislate on this subject, while of course still respecting the authority of the President in this area. This principle of shared authority was recognized in the passage of the Atomic Energy Act, the Espionage Act, and the National Security Act. If Congress acts now to establish a statutory classification and declassification system, we should take a similarly balanced approach.

Balance is also needed in our approach to considering the legislation in the Senate. While S. 712 has been properly referred to our committee, the Committee on Governmental Affairs, the bill raises important issues of interest to the Select Committee on Intelligence, the Armed Services Committee, and the Committee on Foreign Relations. I am fully committed to working with each of these committees as the bill moves forward.

SUPPLEMENTARY NOTICE OF PROPOSED RULEMAKING

Mr. THURMOND. Mr. President, pursuant to Section 303 of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1383, a Supplementary Notice of Proposed Rulemaking was submitted by the Office of Compliance, U.S. Congress. The Supplementary Notice extends the comment period of a prior notice.

Section 304(b) requires this Notice to be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the notice be printed in the RECORD.

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

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: AMENDMENTS TO PROCEDURAL RULES

SUPPLEMENTARY NOTICE OF PROPOSED RULEMAKING—EXTENSION OF COMMENT PERIOD

Summary: On October 1, 1997, the Executive Director of the Office of Compliance (''Office'') published a Notice of Proposed Rulemaking (''NPRM'') to amend the Procedural Rules of the Office of Compliance to cover the General Accounting Office and the Library of Congress and their employees, 143 CONG. REC. S10291 (daily ed. Oct. 1, 1997), and on January 28, 1998, the Executive Director published a Supplementary Notice of Proposed Rulemaking requesting further comment on issues raised in comments submitted by the Library of Congress, 144 CONG. REC. S86 (daily ed. Jan. 28, 1998).

At the request of a commenter, the comment period stated in the Supplementary Notice of Proposed Rulemaking has been extended for two weeks, until March 13, 1998.

Dates: Comments are due no later than March 13, 1998.

Addresses: Submit comments in writing (an original and 10 copies) to the Executive Director, Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, S.E., Washington, D.C. 20540–1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile (''FAX'') machine to (202) 426–1913. This is not a toll-free call.

Availability of comments for public review: Copies of comments received by the Office will be available for public review at the Law Library Reading Room, Room LM–201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For further information contact: Executive Director, Office of Compliance, at (202) 724–9250 (voice), (202) 426–1912 (TTY). This Notice will also be made available in large print or braille or on computer disk upon request to the Office of Compliance.

Signed at Washington, D.C., on this 27th day of February, 1998.

RICKY SILBERMAN,
Executive Director, Office of Compliance.

WELCOMING DR. KAMIL IDRIS, DIRECTOR GENERAL OF THE WORLD INTELLECTUAL PROPERTY ORGANIZATION

Mr. HATCH. Mr. President, I rise today to welcome to the United States Dr. Kamil Idris, the Director General of the World Intellectual Property Organization (WIPO). As many of my colleagues know, Dr. Idris was elected Director General in November 1997, succeeding Dr. Arpad Bogsch, who served in that capacity for 25 years. As Director General, Dr. Idris is responsible for overseeing WIPO's strong efforts in promoting intellectual property protection across the globe.

Dr. Idris has had a long and distinguished diplomatic career on behalf of his native Sudan. He is particularly well-known in international intellectual property circles through his 16 years of effective service to WIPO, most recently as Deputy Director General. I was pleased to visit with Dr. Idris informally shortly after his election as Director General and once again wish him success in his new position.

I would note that Dr. Idris is taking the helm of WIPO at a critical juncture in the evolution of international intellectual property protection. Nations throughout the world will look to his leadership in promoting a global fabric of intellectual property protection in the ever-explosive digital age. The WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, both signed in Geneva in December 1996, are important components of that fabric. The United States has an opportunity to set standards for the world to follow by ratifying and implementing these treaties in a timely fashion. I have joined with my colleagues Senator LEAHY, Senator THOMPSON, and Senator KOHL to introduce legislation to do just that. I look forward to Dr. Idris' support of similar efforts to implement these treaties in an effective manner in the remainder of the WIPO member countries.

Dr. Idris' visit today marks his first official visit to the United States. He will be accompanied by the Commissioner of Patents and Trademarks, Bruce Lehman, who will join Dr. Idris in meetings with the Secretary of Commerce and other agency officials who play important roles in safeguarding and promoting American ingenuity. Dr. Idris will also have the opportunity to meet with many of the leaders of our creative sectors, among them the pharmaceutical, motion picture, software, information technology, broadcasting, publishing, and recording industries. Each of these industries depend on the work of WIPO to assist them in securing effective protection for their intellectual property in the international marketplace.

I am pleased that Dr. Idris has made this important visit. I am sure I am joined by my colleagues in welcoming him today and in wishing him the best in his activities here. I look forward to

continuing to work with him in a close and cooperative relationship.

THE VERY BAD DEBT BOXSCORE

MR. HELMS. Mr. President, at the close of business yesterday, Monday, March 2, 1998, the federal debt stood at $5,514,791,303,162.77 (Five trillion, five hundred fourteen billion, seven hundred ninety-one million, three hundred three thousand, one hundred sixty-two dollars and seventy-seven cents).

Five years ago, March 2, 1993, the federal debt stood at $4,205,665,000,000 (Four trillion, two hundred five billion, six hundred sixty-five million).

Ten years ago, March 2, 1988, the federal debt stood at $2,489,404,000,000 (Two trillion, four hundred eighty-nine billion, four hundred four million).

Fifteen years ago, March 2, 1983, the federal debt stood at $1,220,347,000,000 (One trillion, two hundred twenty billion, three hundred forty-seven million).

Twenty-five years ago, March 2, 1973, the federal debt stood at $455,045,000,000 (Four hundred fifty-five billion, forty-five million) which reflects a debt increase of more than $5 trillion —$5,059,746,303,162.77 (Five trillion, fifty-nine billion, seven hundred forty-six million, three hundred three thousand, one hundred sixty-two dollars and seventy-seven cents) during the past 25 years.

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.)

REPORT OF THE INTERAGENCY ARCTIC RESEARCH POLICY COMMITTEE—MESSAGE FROM THE PRESIDENT—PM 102

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

To the Congress of the United States:

As required by section 108(b) of Public Law 98–373 (15 U.S.C. 4107(b)), I transmit herewith the Seventh Biennial Report of the Interagency Arctic Research Policy Committee (February 1, 1996 to January 31, 1998).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 3, 1998*.

REPORT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR CALENDAR YEAR 1996—MESSAGE FROM THE PRESIDENT—PM 103

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Pursuant to the requirements of 42 U.S.C. 3536, I transmit herewith the 32d Annual Report of the Department of Housing and Urban Development, which covers calendar year 1996.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 3, 1998*.

REPORT ENTITLED ''1998 NATIONAL DRUG CONTROL STRATEGY''—MESSAGE FROM THE PRESIDENT—PM 104

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Judiciary.

To the Congress of the United States:

On behalf of the American people, I am pleased to transmit the *1998 National Drug Control Strategy* to the Congress. The 1998 *Strategy* reaffirms our bipartisan, enduring commitment to reduce drug use and its destructive consequences.

This year's *Strategy* builds upon the 1997 *Strategy* and is designed to reduce drug use and availability in America in half over the next 10 years—a historic new low. This plan has been developed under the leadership of General Barry McCaffrey, Director of National Drug Control Policy, in close consultation with the Congress, the more than 50 Federal agencies and departments involved in the fight against drugs, the dedicated men and women of law enforcement, and with stakeholders—mayors, doctors, clergy, civic leaders, parents, and young people—drawn from all segments of our society.

I am also proud to report that we have made real and substantial progress in carrying out the goals of the 1997 *Strategy*. Working with the Congress, we have begun the National Anti-Drug Youth Media Campaign. Now when our children turn on the television, surf the ''net,'' or listen to the radio, they can learn the plain truth about drugs: they are wrong, they put your future at risk, and they can kill you. I thank you for your vital support in bringing this important message to America's young people.

Together, we enacted into law the Drug-Free Communities Act of 1997, which will help build and strengthen 14,000 community anti-drug coalitions and brought together civic groups—ranging from the Elks to the Girl Scouts and representing over 55 million Americans—to form a Civic Alliance, targeting youth drug use. By mobilizing people and empowering communities, we are defeating drugs through a child-by-child, street-by-street, and neighborhood-by-neighborhood approach.

We have also helped make our streets and communities safer by strengthening law enforcement. Through my Administration's Community Oriented Police (COPs) program, we are helping put 100,000 more police officers in towns and cities across the Nation. We are taking deadly assault weapons out of the hands of drug dealers and gangs, making our streets safer for our families. We have taken steps to rid our prisons of drugs, as well as to break the vicious cycle of drugs and crime. These efforts are making a difference: violent crime in America has dropped dramatically for 5 years in a row.

Over the last year, the United States and Mexico reached agreement on a mutual *Threat Assessment* that defines the scope of the common threat we face; and, an *Alliance* that commits our great nations to defeating that threat. Soon, we will sign a bilateral *Strategy* that commits both nations to specific actions and performance benchmarks. Our work to enhance cooperation within the hemisphere and worldwide is already showing results. For example, Peruvian coca production has declined by roughly 40 percent over the last 2 years. In 1997, Mexican drug eradication rates reached record levels, and seizures increased nearly 50 percent over 1996.

We are making a difference. Drug use in America has declined by 50 percent over the last decade. For the first time in 6 years, studies show that youth drug use is beginning to stabilize, and in some respects is even declining. And indications are that the methamphetamine and crack cocaine epidemics, which in recent years were sweeping the Nation, have begun to recede.

However, we must not confuse progress with ultimate success. Although youth drug use has started to decline, it remains unacceptably high.

More than ever, we must recommit ourselves to give parents the tools and support they need to teach children that drugs are dangerous and wrong. That is why we must improve the Safe and Drug-Free Schools program, and other after school initiatives that help keep our kids in school, off drugs, and out of trouble. We must hire 1,000 new border patrol agents and close the door on drugs at our borders. We must redouble our efforts with other nations to take the profits out of drug dealing and trafficking and break the sources of supply. And we must enact comprehensive bipartisan tobacco legislation that reduces youth smoking. These and other efforts are central elements of the *1998 National Drug Control Strategy*.

With the help of the American public, and the ongoing support of the Congress, we can achieve these goals. In

submitting this plan to you, I ask for your continued partnership in defeating drugs in America. Our children and this Nation deserve no less.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 3, 1998*.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations, without amendment:

H.R. 1116. A bill to provide for the conveyance of the reversionary interest of the United States in certain lands to the Clint Independent School District and the Fabens Independent School District.

By Mr. HELMS, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 174. A resolution to state the sense of the Senate that Thailand is a key partner and friend of the United States, has committed itself to executing its responsibilites under its arrangements with the International Monetary Fund, and that the United States should be prepared to take appropriate steps to ensure continued close bilateral relations.

S. Con. Res. 60. A concurrent resolution expressing the sense of Congress in support of efforts to foster friendship and cooperation between the United States and Mongolia, and for other purposes.

S. Con. Res. 78. A concurrent resolution relating to the indictment and prosecution of Saddam Hussein for war crimes and other crimes against humanity.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations:

Robert T. Grey, Jr., of Virginia, for the rank of Ambassador during his tenure of service as United States Representative to the Conference on Disarmament.

(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.)

Mr. HELMS. Mr. President, for the Committee on Foreign Relations, I also report favorably three nomination lists in the Foreign Service which were printed in full in the CONGRESSIONAL RECORDS of October 31, 1997 and February 2, 1998, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of October 31, 1997 and February 2, 1998, at the end of the Senate proceedings.)

In the Foreign Service nominations beginning Kenneth A. Thomas, and ending Charles Grandin Wise, which nominations were received by the Senate and appeared in the Congressional Record of October 31, 1997

In the Foreign Service nominations beginning Dolores F. Harrod, and ending Stephan Wasylko, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 1998

In the Foreign Service nomination of Lyle J. Sebranek, which was received by the Senate and appeared in the Congressional Record of February 2, 1998

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. COVERDELL:

S. 1698. A bill to amend the Immigration and Nationality Act to create a new nonimmigrant category for temporary agricultural workers admitted pursuant to a labor condition attestation; to the Committee on the Judiciary.

By Mr. ALLARD:

S. 1699. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel BILLIE–B–II; to the Committee on Commerce, Science, and Transportation.

By Mr. MOYNIHAN (for himself, Mr. KERRY, and Ms. MOSELEY-BRAUN):

S. 1700. A bill to designate the headquarters building of the Department of Housing and Urban Development in Washington, District of Columbia, as the ''Robert C. Weaver Federal Building''; to the Committee on Environment and Public Works.

By Ms. COLLINS (for herself, Mr. JEFFORDS, and Mr. REED):

S. 1701. A bill to amend the Higher Education Act of 1965 in order to increase the dependent care allowance used to calculate Pell Grant Awards; to the Committee on Labor and Human Resources.

By Mr. ROCKEFELLER:

S. 1702. A bill to amend the Harmonized Tariff Schedule of the United States to change the special rate of duty on purified terephtalic acid imported from Mexico; to the Committee on Finance.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 1703. A bill to provide for the conveyance of certain property from the United States to Stanislaus County, California; to the Committee on Commerce, Science, and Transportation.

By Mr. COVERDELL (for himself, Mrs. FEINSTEIN, Mr. HELMS, and Mr. HUTCHINSON):

S.J. Res. 42. A joint resolution to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1998; to the Committee on Foreign Relations.

S.J. Res. 43. A joint resolution to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding assistance for Mexico during fiscal year 1997, and to provide for the termination of the withholding of and opposition to assistance that results from the disapproval; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. MOYNIHAN (for himself, Mr. LUGAR, Mr. D'AMATO, Mr. KENNEDY, Mr. TORRICELLI, Mr. HOLLINGS, Mr. ROBB, Mr. SANTORUM, Mr. KYL, Mr. AKAKA, Mr. LIEBERMAN, Mr. ALLARD, Mr. COCHRAN, Mr. GRAHAM, Mr. GRASSLEY, Mr. WYDEN, Mr. FAIRCLOTH, Mrs. MURRAY, Mr. KOHL, Mr. MACK, Ms. MIKULSKI, Mr. CRAIG, Mr. BURNS, Mr. BROWNBACK, Mr. DODD, Mr. DORGAN, Mr. ROCKEFELLER, Mr. SMITH of Oregon, Mr. HATCH, Mr. LAUTENBERG, Mr. REID, Mr. COVERDELL, Mr. ENZI, Mr. GRAMM, Mr. KEMPTHORNE, Mr. HELMS, Mr. BAUCUS, Ms. COLLINS, Mr. COATS, Mr. GRAMS, Mrs. FEINSTEIN, Mr. SARBANES, Mr. DEWINE, and Mr. SMITH of New Hampshire):

S. Res. 188. A resolution expressing the sense of the Senate regarding Israeli membership in a United Nations regional group; to the Committee on Foreign Relations.

By Mr. TORRICELLI (for himself, Ms. LANDRIEU, Mrs. BOXER, Ms. SNOWE, Mrs. MURRAY, and Mr. DASCHLE):

S. Res. 189. A resolution honoring the 150th anniversary of the United States Women's Rights Movement that was initiated by the 1848 Women's Rights Convention held in Seneca Falls, New York, and calling for a national celebration of women's rights in 1998; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself and Mrs. FEINSTEIN):

S. Res. 190. A resolution to express the sense of the Senate regarding reductions in class size; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOYNIHAN (for himself, Mr. KERRY, and Ms. MOSELEY-BRAUN):

S. 1700. A bill to designate the headquarters building of the Department of Housing and Urban Development in Washington, District of Columbia, as the ''Rovert C. Weaver Federal Building''; to the Committee on Environment and Public Works.

THE ROBERT C. WEAVER FEDERAL BUILDING DESIGNATION ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise to introduce legislation to name the Housing and Urban Development (HUD) headquarters here in Washington after Dr. Robert C. Weaver, adviser to three Presidents, director of the NAACP, and the first African-American Cabinet Secretary. I am pleased that Senators KERRY and MOSELEY-BRAUN are cosponsors of my bill. I would point out that Senator KERRY was poised to introduce similar legislation; in fact, he sent out a Dear Colleague on the subject last November. But he graciously deferred to me, and I am most appreciative. Bob Weaver was my friend, dating back more than 40 years to our service together in the Harriman administration. He passed away last July at his home in New York City after spending his entire life broadening opportunities for minorities in America. I think it is a fitting tribute to name the HUD building after this great man.

Dr. Weaver began his career in government service as part of President Franklin D. Roosevelt's ''Black Cabinet,'' an informal advisory group promoting educational and job opportunities for blacks. The Washington Post

called this work his greatest legacy, the dismantling of a deeply entrenched system of racial segregation in America. Indeed it was.

Dr. Weaver was appointed Deputy Commissioner of Housing for New York State in 1955, and later became State Rent Administrator with Cabinet rank. It was during these years working for New York Governor Averell Harriman that I first met Bob; I was Assistant to the Secretary to the Governor and later, Acting Secretary.

Our friendship and collaboration continued under the Kennedy and Johnson administrations. In 1960, he became the president of the NAACP, and shortly thereafter would become a key adviser to President Kennedy on civil rights. In 1961, Kennedy appointed Dr. Weaver to head the Housing and Home Finance Agency, an entity that later became the Department of Housing and Urban Development. In 1966, when President Johnson elevated the agency to Cabinet rank, Dr. Weaver was, in Johnson's phrase, ''the man for the job.'' He thus became its first Secretary, and the first African-American to head a Cabinet agency. Later, he and I served together on the Pennsylvania Avenue Commission.

Following his government service, Dr. Weaver was, among various other academic pursuits, a professor at Hunter College, a member of the School of Urban and Public Affairs at Carnegie-Mellon, a visiting professor at Columbia Teacher's College and New York University's School of Education, and the president of Baruch College in Manhattan. When I became director of the Joint Center for Urban Studies at MIT and Harvard, he generously agreed to be a member of the Board of Directors.

Dr. Weaver had earned his undergraduate, master's, and doctoral degrees in economics from Harvard; he wrote four books on urban affairs; and he was one of the original directors of the Municipal Assistance Corporation, which designed the plan to rescue New York City during its tumultuous financial crisis in the 1970s.

Last July, America—and Washington in particular (for he was a native Washingtonian)—lost one of its innovators, one of its creators, one of its true leaders. For Dr. Robert Weaver led not only with his words but with his deeds. I was privileged to know him as a friend. He will be missed but properly memorialized, I think, if we can pass this legislation.

Mr. President, I ask unanimous consent that my bill, and a July 21, 1997 editorial in the Washington Post, and a July 19, 1997 obituary from the New York Times be printed in the RECORD.

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

S. 1700

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

SECTION 1. DESIGNATION OF ROBERT C. WEAVER FEDERAL BUILDING.

In honor of the first Secretary of Housing and Urban Development, the headquarters building of the Department of Housing and Urban Development located at 451 Seventh Street, SW., in Washington, District of Columbia, shall be known and designated as the ''Robert C. Weaver Federal Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the ''Robert C. Weaver Federal Building''.

[From the Washington Post, July 21, 1997]

ROBERT C. WEAVER

Native Washingtonian Robert C. Weaver, who died on Thursday in New York City at age 89, had a life of many firsts. Dr. Weaver served as a college president, Cabinet secretary, presidential adviser, chairman of the National Association for the Advancement of Colored People and as a director of the Municipal Assistance Corp., which helped save New York City from financial catastrophe. But his greatest legacy may be the work he did, largely out of public view, to dismantle a deeply entrenched system of racial segregation in America.

Before the landmark decade of civil rights advances in the 1960s, Dr. Weaver was one of a small group of African American officials in the New Deal era who, as part of the ''Black Cabinet'' pressured President Franklin D. Roosevelt to strike down racial barriers in government employment, housing and education. It was a long way to come for the Dunbar High School graduate who ran into racial discrimination in the 1920s when he tried to join a union fresh out of high school. Embittered by that experience, Bob Weaver went on to Harvard (in the footsteps of his grandfather, the first African American Harvard graduate in dentistry) to earn his bachelor's, master's and doctorate in economics. At another time in America, his university degrees might have led to another career path. For Bob Weaver in 1932, however, those credentials—and his earlier job as a college professor—made him an ''associate advisor on Negro affairs'' in the U.S. Department of the Interior.

Subsequent work as an educator, economist and national housing expert—and behind-the-scenes recruitment of scores of African Americans for public service—led to his appointment as New York State rent administrator, making him the first African American with state cabinet rank. President John F. Kennedy appointed him to the highest federal post ever occupied by an African American—the Housing and Home Finance Agency. Despite the president's support, however, the HHFA never made it to Cabinet status, because Dr. Weaver was its administrator and southern legislators rebelled at the thought of a black secretary. Years later President Lyndon Johnson pushed through the Department of Housing and Urban Development and named Robert Weaver to the presidential Cabinet.

For the nation, and Robert Weaver, the appointment was another important first. For many other African Americans who found lower barriers and increased opportunity in the last third of the 20th century, Robert Weaver's legacy is lasting.

[From the New York Times, July 19, 1997]

ROBERT C. WEAVER, 89, FIRST BLACK CABINET MEMBER, DIES

(By James Barron)

Dr. Robert C. Weaver, the first Secretary of Housing and Urban Development and the first black person appointed to the Cabinet, died on Thursday at his home in Manhattan. He was 89.

Dr. Weaver was also one of the original directors of the Municipal Assistance Corporation, which was formed to rescue New York City from financial crisis in the 1970's.

''He was a catalyst with the Kennedys and then with Johnson, forging new initiatives in housing and education,'' said Walter E. Washington, the first elected Mayor of the nation's capital.

A portly, pedagogical man who wrote four books on urban affairs, Dr. Weaver had made a name for himself in the 1930's and 1940's as an expert behind-the-scenes strategist in the civil rights movement. ''Fight hard and legally,'' he said, ''and don't blow your top.''

As a part of the ''Black Cabinet'' in the administration of President Franklin D. Roosevelt, Dr. Weaver was one of a group of blacks who specialized in housing, education and employment. After being hired as race relations advisers in various Federal agencies, they pressured and persuaded the White House to provide more jobs, better educational opportunities and equal rights.

Dr. Weaver began in 1933 as an aide to Interior Secretary Harold L. Ickes. He later served as a special assistant in the housing division of the Works Progress Administration, the National Defense Advisory Commission, the War Production Board and the War Manpower Commission.

Shortly before the 1940 election, he devised a strategy that defused anger among blacks about Stephen T. Early, President Roosevelt's press secretary. Arriving at Pennsylvania Station in New York, Early lost his temper when a line of police officers blocked his way. Early knocked one of the officers, who happened to be black, to the ground. As word of the incident spread, a White House adviser put through a telephone call to Dr. Weaver in Washington.

The aide, worried that the incident would cost Roosevelt the black vote, told Dr. Weaver to find the other black advisers and prepare a speech that would appeal to blacks for the President to deliver the following week.

Dr. Weaver said he doubted that he could find anyone in the middle of the night, even though most of the others in the ''Black Cabinet'' had been playing poker in his basement when the phone rang. ''And anyway,'' he said, ''I don't think a mere speech will do it. What we need right now is something so dramatic that it will make the Negro voters forget all about Steve Early and the Negro cop too.''

Within 48 hours, Benjamin O. Davis Sr. was the first black general in the Army; William H. Hastie was the first black civilian aide to the Secretary of War, and Campbell C. Johnson was the first high-ranking black aide to the head of the Selective Service.

Robert Clifton Weaver was born on Dec. 29, 1907, in Washington. His father was a postal worker and his mother—who he said influenced his intellectual development—was the daughter of the first black person to graduate from Harvard with a degree in dentistry. When Dr. Weaver joined the Kennedy Administration, whose Harvard connections extended to the occupant of the Oval Office, he held more Harvard degrees—three, including a doctorate in economics—than anyone else in the administration's upper ranks.

In 1960, after serving as the New York State Rent Commissioner, Dr. Weaver became the national chairman of the National

Association for the Advancement of Colored People, and President Kennedy sought Dr. Weaver's advice on civil rights. The following year, the President appointed him administrator of the Housing and Home Finance Agency, a loose combination of agencies that included the bureaucratic components of what would eventually become H.U.D., including the Federal Housing Administration to spur construction, the Urban Renewal Administration to oversee slum clearance and the Federal National Mortgage Association to line up money for new housing.

President Kennedy tried to have the agency raised to Cabinet rank, but Congress balked. Southerners led an attack against the appointment of a black to the Cabinet, and there were charges that Dr. Weaver was an extremist. Kennedy abandoned the idea of creating an urban affairs department.

Five years later, when President Johnson revived the idea and pushed it through Congress, Senators who had voted against Dr. Weaver the first time around voted for him.

Past Federal housing programs had largely dealt with bricks-and-mortar policies. Dr. Weaver said Washington needed to take a more philosophical approach. ''Creative federalism stresses local initiative, local solutions to local problems,'' he said.

But, he added, ''where the obvious needs for action to meet an urban problem are not being fulfilled, the Federal Government has a responsibility at least to generate a thorough awareness of the problem.''

Dr. Weaver, who said that ''you cannot have physical renewal without human renewal,'' pushed for better-looking public housing by offering awards for design. He also increased the amount of money for small businesses displaced by urban renewal and revived the long-dormant idea of Federal rent subsidies for the elderly.

Later in his life, he was a professor of urban affairs at Hunter College, was a member of the Visiting Committee at the School of Urban and Public Affairs at Carnegie-Mellon University and held visiting professorships at Columbia Teachers' College and the New York University School of Education. He also served as a consultant to the Ford Foundation and was the president of Baruch College in Manhattan in 1969.

His wife, Ella, died in 1991. Their son, Robert Jr., died in 1962.

Mr. KERRY. Mr. President, I join Senator MOYNIHAN in supporting his legislation to designate the headquarters building of the Department of Housing and Urban Development in Washington, D.C. as the ''Robert C. Weaver Federal Building.''

Robert Weaver was a stalwart leader in the fight to build a society free from racial prejudice and discrimination. He spent his life in a pursuit of equality and a campaign to end all forms of discrimination based on race.

Dr. Weaver was a member of ''the black cabinet'' which sought to ensure that the new government projects of the New Deal applied to and benefitted minority groups during the Roosevelt Administration. His personal crusade led for civil rights led to the selection of the first African-American to be a general in the Army, the naming of the first African-American to be a civilian aide to the Secretary of War, and the appointment of the first African-American to be a high-ranking aide to the head of the Selective Service.

In 1955, Dr. Weaver began a long career in housing when he was appointed Deputy Commissioner of Housing for the State of New York. Later that year, he became the state rent administrator. In 1960, Dr. Weaver was selected to be the vice-chairman of the New York City Housing Redevelopment Board, a three-member body responsible for administering the city's urban renewal and moderate-income housing programs.

Dr. Weaver's reputation as a skilled housing policy and program practitioner soon extended well beyond New York. President John K. Kennedy named Dr. Weaver as Administrator of the Federal Housing and Home Finance Agency, and President Lyndon Johnson nominated him to be the first Secretary of Housing and Urban Development when the Department of Housing and Urban Development was formed in 1966.

Dr. Weaver's leadership and vision set the course for the future of the housing and urban redevelopment industries. Past Federal housing programs had focused largely on ''bricks-and-mortar'' policies, but Dr. Weaver believed that ''you cannot have physical renewal without human renewal.'' His principal concern was to raise the standard of urban housing and to move away from the bleak high rise projects that scarred the urban landscape and were the origins of many inner city social problems that were just beginning to be recognized. He used all of his various positions and considerable experience to advocate effective public programs to house all Americans and to revitalize communities.

He was a true visionary who fought to expand the possibilities of all Americans. I can think of no better person to name the first building to house the Department of Housing and Urban Development than Dr. Robert Clifton Weaver, the first African-American Cabinet member in New York State, the first African-American member of a President's cabinet, and the federal government's first Secretary of Housing and Urban Development. This tribute is even more fitting because Robert Weaver, along with then Vice-President Hubert H. Humphrey and others, laid the cornerstone of this building during his tenure as Secretary.

By Mr. ROCKEFELLER:

S. 1702. A bill to amend the Harmonized Tariff Schedule for the United States to change the special rate of duty on purified terephtalic acid imported from Mexico; to the Committee on Finance.

HARMONIZED TARIFF SCHEDULE LEGISLATION

Mr. ROCKEFELLER. Mr. President, I rise today to introduce this bill to amend Chapter 29 of the Harmonized Tariff Schedule of the United States to effect the immediate elimination of the special duty rate on Purified Terephthalic Acid (PTA) imports from Mexico in order that the United States polyester industry can remain competitive in the U.S. domestic market.

We're faced with an ironic situation where a single American supplier is the source of substantial harm to the American polyester production industry and American workers. This is a highly unusual situation in which the American supplier has been able to remain a monopolistic producer of PTA, thus controlling the supply of the product and the price U.S. consumers must pay. By eliminating the tariff on PTA from Mexico, this legislation will place the U.S. PTA market on a level playing field with adequate supply and market dictated prices.

PTA is the principal feedstock in producing polyethylene terephthalate (PET), a polyester resin produced in West Virginia by Shell Chemical. This feedstock, PTA, comprises nearly two thirds the cost of polyester production. PTA is produced for the U.S. merchant market by one sole supplier, who can control both the price and supply of PTA in the U.S. market. Because the NAFTA tariff makes PTA imports unaffordable, U.S. PET producers, like Shell, are limited domestically to only one source to meet their PTA needs. This domestic source is not providing PET buyers with sufficient quantities of PTA, nor at a competitive price. Subsequently, the combination of the NAFTA tariff on PTA and a single domestic merchant producer of PTA, the U.S. price for PTA is kept the highest in the world. As a result, U.S. polyester producers, like the one in West Virginia, operate in a closed, non-competitive environment.

Consequently, a tariff inversion is created which significantly harms U.S. PET production because PET imports made with cheaper, foreign PTA are subject to relatively low tariffs or none at all in the case of GSP countries. This tariff inversion exposes West Virginia's PET production and all U.S. polyester production to unfair competition from foreign competitors. Further, it prohibits any possibility for expansion and new job creation.

I understand that the Office of the United States Trade Representative is currently negotiating with their Mexican counterparts various tariff eliminations under the Second Round of Accelerated Tariff Elimination under the North American Free Trade Agreement. The PTA tariff is under consideration. The elimination of the duty for PTA is supported by the majority of the U.S. PTA industry and Mexico.

Shell's future economic viability in West Virginia is linked to the elimination of this tariff. If the tariff is not eliminated, the cutback in Shell polyester production could cost as many as 250 full-time jobs that pay on average, $70,000 a year, including direct wages, benefits and retirement. Already 160 jobs have been lost since 1995 as a direct result of the economic disadvantage caused by this inequity. I would add that these jobs provide some of the highest paying salaries in my State.

This lack of competitive domestic PTA pricing does not just cause harm

to my State of West Virginia—also at risk are nearly 3,500 workers employed by several U.S. polyester producers buying PTA across the country.

I urge the Senate to act on this PTA tariff elimination bill so that West Virginians and other domestic workers and producers can fairly compete in this highly competitive global marketplace and to have the opportunity to expand U.S. operations when market conditions permit.

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

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

S. 1702

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

SECTION 1. TEREPHTHALIC ACID.

(a) IN GENERAL.—Subheading 2917.36.00 of the harmonized Tariff Schedule of the United States in amended by striking ''1.8¢/kg + 8.9% (MX)'' in the special rates of duty subcolumn and inserting '', MX'' in the parenthetical after ''J''.

(b) EFFECTIVE DATE.—The amendment made by this section applies to goods entered on or after the date that is 15 days after the date of enactment of this Act.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 1703. A bill to provide for the conveyance of certain property from the United States to Stanislaus County, California; to the Committee on Commerce, Science, and Transportation.

THE STANISLAUS COUNTY FEDERAL LAND CONVEYANCE ACT OF 1998

Mrs. BOXER. Mr. President, I rise today to introduce legislation providing for the conveyance of federal land to Stanislaus County, California. This bill is nearly identical to legislation passed by the House of Representatives last November.

The land in question is known as the NASA Ames Research Center, Crows Landing Naval Air Facility. During World War II, Crows Landing was a flight training center encompassing 1,500 acres and containing two airstrips. Following the war, jurisdiction was transferred to NASA, which now no longer has any use for this facility. Right now, these airstrips are going to waste.

Giving this land back to the county will promote economic growth and be an important asset to local development. While passage of this bill would greatly serve Stanislaus County, it would also permit NASA to retain the right to use the facility for aviation purposes. It creates a win-win situation for all involved.

Crows Landing has greatly served this nation—first in the interest of national defense and then to the benefit of the space program. But now, it lies abandoned. We should follow the House and give this land back to the people of Stanislaus County.

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. 1703

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

SECTION 1. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the National Aeronautics and Space Administration.

(2) FEDERAL AGENCY.—The term ''Federal agency'' has the meaning given the term ''agency'' in section 555(1) of title 5, United States Code.

(3) NASA.—The term ''NASA'' means the National Aeronautics and Space Administration.

SEC. 2. CONVEYANCE OF PROPERTY.

As soon as practicable after the date of enactment of this Act, the Administrator shall convey to Stanislaus County, California, all right, title, and interest of the United States in and to the property described in section 3.

SEC. 3. PROPERTY DESCRIBED.

The property to be conveyed pursuant to section 2 is—

(1) the approximately 1,528 acres of land in Stanislaus County, California, known as the ''NASA Ames Research Center, Crows Landing Facility (formerly known as the Naval Auxiliary Landing Field, Crows Landing)'';

(2) all improvements on the land described in paragraph (1); and

(3) any other Federal property that is—

(A) under the jurisdiction of NASA;

(B) located on the land described in paragraph (1); and

(C) designated by NASA to be transferred to Stanislaus County, California.

SEC. 4. TERMS.

(a) CONSIDERATION.—The conveyance required by section 2 shall be without consideration other than that required by this section.

(b) ENVIRONMENTAL REMEDIATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the conveyance required by section 2 shall not relieve any Federal agency of any responsibility under applicable law for any environmental remediation of soil, groundwater, or surface water.

(2) OTHER REMEDIATION.—Any remediation of contamination, other than that described in paragraph (1), within or related to structures or fixtures on the property described in section 3 shall be subject to negotiation to the extent permitted by law.

(c) RETAINED RIGHT OF USE; TERMS AND CONDITIONS OF TRANSFER.—

(1) IN GENERAL.—Subject to paragraph (2), the National Aeronautics and Space Administration shall retain the right to use for aviation activities, without consideration and on other terms and conditions mutually acceptable to NASA and Stanislaus County, California, the property described in section 3.

(2) LEGISLATIVE JURISDICTION.—The terms and conditions referred to in paragraphs (1) and (3) may not include any provision restricting the legislative jurisdiction of the State of California over the property conveyed pursuant to section 2.

(3) ADDITIONAL TERMS.—Subject to paragraph (2), the Administrator may negotiate additional terms of the conveyance required by section 2 to protect the interests of the United States.

By Mr. COVERDELL (for himself, Mrs. FEINSTEIN, Mr. HELMS, and Mr. HUTCHINSON):

S.J. Res. 42. A joint resolution to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1998; to the Committee on Foreign Relations.

S.J. Res. 43. A joint resolution to disapprove the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding assistance for Mexico during fiscal year 1997, and to provide for the termination of the withholding of and opposition to assistance that results from the disapproval; to the Committee on Foreign Relations.

MEXICO CERTIFICATION DISAPPROVAL LEGISLATION

Mr. COVERDELL. Mr. President, for the next few minutes I will make limited remarks prior to the introduction of two separate joint resolutions that deal with the administration's recent certification of Mexico dealing with the losing drug war, and that deal, in my judgment, was a more appropriate approach to this situation.

Mr. President, I consider myself as a person somewhat surprised by the New York Times editorial of Saturday, February 28, 1998; the headline of the editorial, ''Certifiably Wrong On Mexico.''

The Clinton administration does no favor to Mexico or its own credibility by certifying that Mexico is ''fully cooperating'' in the fight against drug trafficking. Compounding the damage, the White House Drug Policy Director, Barry McCaffrey, fatuously claims that Mexican cooperation is ''absolutely superlative.''

According to this editorial,

> A more truthful assessment can be found in the Drug Enforcement Administration's confidential evaluation, described by Tim Golden in yesterday's Times. The DEA concludes that ''the Government of Mexico has not accomplished its counter-narcotic goals or succeeded in cooperation with the U.S. Government.'' Mexican trafficking has increased, the DEA notes, and the corruption of its enforcement agencies ''continues unabated.''
>
> Though Washington finds it diplomatically inconvenient to acknowledge, Mexico has a chronic problem with drug traffickers who always seem to be able to secure the political influence they need to avoid arrest and prosecution. This drug corruption greases the flow of narcotics into the United States. Mexico's drug networks span the border, supplying cocaine, heroin, and marijuana to American users.

Mr. President, in a hearing last week, I indicated, along with Senator FEINSTEIN of California, that we would be introducing resolutions, the purpose of which would be to change this course between the United States and Mexico on this matter. It would be our goal that the process would decertify Mexico on this matter with a Presidential waiver in the national interest in which I believe we both concur. This would be an honest appraisal of our circumstances.

The problem with certifying is that it sends a message to the vast populations of the United States and of Mexico that this war is being won, that we have turned a corner, that things

are working out. That simply is not the case. I think it does a disservice to the entire population of both countries for us to send a message of victory when, indeed, the message is one of gravity and loss.

This situation has grave consequences for the people of the United States. I have to say that the United States shares enormous responsibility in this struggle. My remarks are not intended to castigate or single out Mexico; quite to the contrary; I view them as a great ally. They are a great trading partner. We share this hemisphere. We have mutual goals—democratic goals. But neither country seems to want to face the fact that it is losing a precious struggle.

In 1991, the drug interdiction budget for the United States was $2.03 billion; today it is $1.44 billion. That is a dramatic reduction in our commitment. In 1992, the United States stopped, seized 440 kilograms of cocaine and marijuana a day; in 1995, it had been cut in half; we only stopped 205 kilograms of cocaine and marijuana per day.

What does this all mean? In shorthand, it means that about 3 million teenagers aged 12–16 are using drugs today that weren't in 1991. To give an example, in 1991, 400,000 eighth-graders had used an illicit drug in the last year. In 1996 and 1997, that number rose to 920,000. In 10th grade, 600,000 had used a drug in 1991; in 1996 and 1997, it had doubled to 1.2 million children. In 12th grade, 600,000 in 1991; 1.1 million, almost doubled again, in 1996 and 1997.

So by not confronting this directly and honesty, we are all contributing to the accelerated rate of children using drugs and we are going to pay a price for this the likes of which we have never seen.

I will yield to the Senator from California in just a moment, but first I quote a story of a top administrative official on this. It ran in the Phoenix papers.

> ''Our current interdiction efforts almost completely fail to achieve our purpose of reducing the flow of cocaine, heroin, and methamphetamines across the (Southwest) [the Mexican] border,'' said Francis X. Kinney, director of strategic planning for the Office of National Drug Control Policy. . . .
>
> Kinney said the United States will continue to be overrun by drug traffic at the U.S.-Mexican border unless it emphasizes improved intelligence and high-tech screening equipment. . .

The last thing he said addresses the Senator from California:

> ''They [the Congress] want us to call it like it is, not to be an apologist,'' alluding to the U.S. Congress.

I think this gentleman is absolutely correct.

Mr. President, I send a joint resolution to the desk and ask for its appropriate referral.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred.

Mr. COVERDELL. Mr. President, I send another joint resolution to the desk and ask for its appropriate referral.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred.

Mr. COVERDELL. Mr. President, in concluding and yielding to the Senator from California, I just want to make it clear that the purpose of these two joint resolutions is to alter the course of our engagement in the drug war, principally as it relates to Mexico. Instead of certifying and saying, ''Here is a message of victory to the two peoples of the two Nations,'' it decertifies with a national security waiver and calls it like it is and refocuses our Governments and our people in a combined effort to win this battle and not lose it—to win it for the millions of children that are suffering, because we are losing it.

Mrs. FEINSTEIN. Mr. President, I thank the distinguished Senator from Georgia, and I rise to join him in submitting these resolutions for disapproval of the President's decision to certify Mexico as fully cooperating with the United States in the fight against drug trafficking.

Mr. President, as we all know, when the President made the same decision last year, it sparked an intense debate between the administration and what was in all probability a majority of Congress who did not believe that Mexico had earned certification. I have looked long and hard at the evidence that is available. I have received extensive briefings from law enforcement and intelligence officials. Anyone, I believe, who has received these same briefings would come to the conclusion I have reached, that once again the decision to certify Mexico is incorrect and not grounded in the facts.

While Mexico has made some limited progress, there remain gaping holes in its counternarcotics effort. Whether due to inability or lack of political will, these failures badly undermine the urgent effort to keep the scourge of drugs off our streets. Regardless of America's demand problem, when the supply of drugs reaches the point where it comes in at literally tons each day, any demand program is extraordinarily difficult to sustain.

Has Mexico cooperated in some areas? Of course. There are one or two new police units which seem to have trusting relationships with the DEA. New vetting procedures are beginning to be implemented in the hiring of new police officers. Mexico and the United States have agreed on a bilateral drug strategy, although it is a vaguely worded document that will take years to evaluate whether it has been successful and whether actions on the streets will follow this roundtable document.

It can also be argued that pressure brought to bear on drug lord Amado Carrillo-Fuentes was responsible for driving him to seek refuge in another country—Chile—and very likely for his attempt to conceal his identity through plastic surgery. The surgery, of course, resulted in his death and the torture-murder of the entire surgical team. His organization, however, continues to operate, and a reign of violence has been unleashed as his would-be successors battle for control of his organization.

But last year, Senator COVERDELL and I laid out a number of key areas that we would use to judge whether or not Mexico has reached the standard of full cooperation. Sadly, our top law enforcement agencies indicate that none of these changes has produced significant results. There has been no demonstrable action on any—and I repeat ''any''—of the benchmarks outlined by Congress last year as key measurements of cooperation by Mexico: dismantlement of drug cartels, the arrest and prosecution of cartel leaders, the extradition of Mexican nationals on drug charges to the United States for prosecution, effective prosecution of corrupt officials, law enforcement cooperation, effective money laundering laws implemented, security of U.S. drug agents working in bilateral efforts in Mexico.

Let me touch on each of these. The cartels in Mexico today are either as strong or stronger than they were a year ago. And despite much talk of cooperation, there has been no substantial progress by the Government of Mexico in developing prosecutable cases against the leaders of the major drug trafficking groups, even when these individuals have been identified by U.S. investigations and are made the subject of U.S. indictments.

The scope of Mexican drug trafficking has increased significantly, along with the attendant violence, even against United States and Mexican law enforcement officials and informants. During 1997, DEA recorded in excess of 50 incidents of threats along the Southwest border. According to the information I have received, the Mexican Government has arrested and prosecuted few individuals in connection with these acts. None of the major cartels has been dismantled nor have their leaders been arrested.

Take the Amado Carrillo-Fuentes organization. After the death of Amado Carrillo-Fuentes, there were numerous enforcement actions taken against his organization, but the intelligence was unproductive, leading to insignificant asset seizures and new arrests.

On July 30, 1997, Mexican authorities detained a close associate of Carrillo-Fuentes, Manuel Bitar-Tafich, leading to seizure of $50 million in the United States. However, because the Mexicans have not provided the needed documents to support the seizure in the United States, much of the money had to be returned. Bitar himself remains in custody, but there has been no movement on his case. While the Mexicans have reported seizing $52 million in Mexico, no documentation supporting this seizure has been provided to the U.S. Government.

The Mexican Government arrested Noe Brito, a member of Carrillo-

Fuentes' security apparatus. He was released, however, before the DEA was even allowed to interview him.

The Arellano-Felix operation—the notorious cartel located just south of California in the Tijuana area—continues to operate with impunity. There have been several enforcement actions in 1997, but few resulted in significant results against the cartel's trafficking operations.

On November 8, 1997, the Mexican Attorney General's Office arrested Arturo Everardo Paez-Martinez, a known cartel assassin. Paez is incarcerated in Mexico on the basis of a provisional U.S. arrest warrant but has not been extradited.

On September 20, Mexico's counternarcotics unit reporting to the Attorney General arrested two men on weapons charges, who are known members of the ''Juniors,'' a group of young assassins recruited by the Arellano-Felix cartel. The Government of Mexico offered to extradite one of the men, but the United States had to turn down the offer due to lack of outstanding charges and evidence against him. This is an example of what results from a lack of cooperative law enforcement efforts.

The Sonora Cartel. Miguel Angel Caro-Quintero heads his family's organization operating out of Sonora, Mexico. There are four outstanding warrants for him on smuggling, RICO statute, and conspiracy charges. He has been operating freely in Mexico since 1992. There are also provisional arrest warrants issued for both Miguel and Rafael Caro-Quintero.

The Amezcua-Contreras brothers. The Amezcua-Contreras brothers' organization is believed to be the world's largest clandestine producer of methamphetamine. The organization procures huge quantities of the ephedrine in Thailand and India, which is supplied to laboratories in Mexico and California. The Amezcuas' methamphetamine is distributed in large cities across the United States. A U.S. law enforcement investigation, Operation META, concluded in December of 1997 with the arrest of 101 defendants, seizure of 133 pounds of methamphetamine, and the precursors to manufacture up to 540 pounds more, along with 1,100 kilos of cocaine and over $2.25 million in assets.

Mexican efforts against this organization have not met with great success:

On November 10, 1997, the Mexican military's special vetted unit arrested Adan Amezcua at his ranch in Colima on gun charges, not on drug charges. He is the only Amezcua not under indictment in either the United States or Mexico. He remains in custody pending further investigations. The Government of Mexico has failed to indict or arrest any of the principal members of the Amezcua organization in Mexico.

The DEA International Chemical Control Unit has supported elements of the Government of Mexico financially and logistically for numerous investigations of the Amezcuas, with little or no results. None of the investigations resulted in arrests or produced information that could be used in U.S. courts.

Though Jesus and Luis Amezcua are currently under Federal indictment in the United States on a variety of charges, there are no provisional arrest warrants for them and they remain at large in Mexico.

Extradition was a key benchmark and a test of cooperation. There have been no extraditions from Mexico to the United States of any Mexican nationals on drug charges—none.

The identities of the leaders of the major criminal groups based in Mexico who control the flow of heroin, cocaine, and methamphetamine to the United States have been known for several years. In fact, U.S. law enforcement agencies have built cases on and indicted in the United States virtually all of these cartel leaders. The Department of Justice has filed provisional arrest warrants for the most significant drug traffickers in Mexico. While several have been arrested, many others remain at large and none has been extradited to the United States.

In the war against drugs, extradition of cartel leaders for trial and imprisonment in the United States is a key and indisputable beachhead in the war against drug trafficking. It is also a major benchmark of cooperation.

In my view—and I know the view held by law enforcement in the United States—the drug lords operating in Mexico only fear extradition to the United States, where they know they will stand trial and face punishment commensurate with their crimes. The Mexican law enforcement institutions and legal system present no deterrent to their operations.

That is why this Senate, many of my colleagues, and law enforcement officials have repeatedly said that the most meaningful measurement of real progress in drug cooperation with Mexico is if the major traffickers are apprehended and extradited to the United States.

Provisional arrest warrants have been filed by the Department of Justice for the following major traffickers: Agustin Vasquez-Mendoza, Ramon Arellano-Felix, Rafael Caro-Quintero, Miguel Caro-Quintero, Vicente Carrillo-Fuentes, Eduardo Gonzalez-Quirarte, Oscar Malherbe, Arturo Paez-Martinez, Jaime Ladino-Avila, Jose Gerardo-Castro/Gonzalez-Gutierez, William Brian Martin, Miguel Angel Martinez-Martinez, Antonio Hernandez-Acosta, and Miguel Felix Gallardo.

These are all key lieutenants in either the Amezcua, Carrillo-Fuentes, Caro-Quintero, or Arellano-Felix organizations. The Justice Department requested extradition of four of the above within the past year. The first two requests have been stalled or completely thwarted by Mexican courts.

Last November, the United States and Mexico Attorneys General signed a protocol to the United States-Mexican Extradition Treaty that authorized temporary surrender of a convicted party to the other country to face drug charges. This is certainly a positive signal, but it has yet to be tested in practice.

The bottom line is that, to date, there has not been a single extradition of a Mexican national to the United States on drug charges—not one.

Corruption. Drug-related corruption is probably the single greatest obstacle that the United States faces in its global battle against international drug trafficking. Unfortunately, drug corruption in Mexico is so deeply rooted that it persists despite attempts to eradicate it.

The level of drug corruption in Mexico continues unabated. According to the briefings I have received, virtually every investigation our law enforcement agencies conduct against major traffickers in Mexico uncovers significant corruption of law enforcement officials.

Our own law enforcement agencies indicate that endemic corruption among Mexican law enforcement officials continually frustrates our effort to build cases against and to apprehend the most significant drug traffickers in Mexico, and it is the primary reason there has been no meaningful progress in drug law enforcement in Mexico.

In the wake of the devastating disclosure that Mexico's own ''drug czar'' was on the payroll of Amado Carrillo-Fuentes, the Mexican Government dismantled the INCD, the Mexican counterpart to the DEA, and fired the majority of its employees.

Unfortunately, many of those fired were ordered reinstated by Mexican courts.

Additionally, of the 40 military officers arrested as part of the Gutierrez-Rebollo investigation, none has been brought to trial or convicted to date.

The following cases indicate how deeply drug corruption has penetrated into Mexican institutions:

Colonel Jose Luis Rubalcava, who had been Director of the Federal Judicial Anti-Drug Police under the INCD, was arrested on or about April 14, 1997 on charges in connection with 2.5 tons of cocaine seized in Sombrete, Mexico in 1995. This is the director for the Judicial Anti-Drug Police—2½ tons of cocaine.

U.S. law enforcement officials speculate that bribery and corruption may have been behind the withdrawal of Baja state police protection from a Tijuana news editor prior to his November 27, 1997 attempted assassination. The editor had been putting public pressure on the issue of drug corruption.

According to a December 1997 statement by Mexican Attorney General Madrazo, out of some 870 Federal agents dismissed on corruption charges in 1996, 700 have been rehired in either the PGR—the Mexican Attorney General's office—or at the state and local

level. The rehiring was done at the direction of the courts.

If you cannot fire corrupt law enforcement officials, how can you fight drugs?

The issue of prosecuting corrupt officials is important, because without fear of prosecution, there is little deterrence. Too often in Mexico, officials are fired, but never prosecuted.

In 1997, there were only 3 corruption cases being prosecuted, including General Gutierrez. Another case involves the theft of 476 kilograms of cocaine by 17 PGR officials, including an Army General in Sonora. The third involved a Judicial Police Comandante. The Mexican government has reportedly begun additional prosecutions, but many more cases need to be brought to trial in order to have any deterrent effect.

LAW ENFORCEMENT COOPERATION

This is where the rubber hits the road in counternarcotics cooperation, not in agreements reached at the political level. Unfortunately, law enforcement cooperation from Mexico has been severely lacking.

It is encouraging to hear from DEA that there are now some Mexican officials with whom they believe they can build a trusting relationship.

A key aspect of this institution-building process is vetting, leading to the development and professionalization of the new drug enforcement unit, the Special Prosecutor's Office for Crimes Against Health.

This vetting process could go a long way toward providing U.S. law enforcement officials with the level of trust in their counterparts necessary for an effective bi-lateral effort, but it is still in its infancy, and even some officials who have been ''vetted'' have subsequently been arrested in connection with traffickers. So while this effort is critically important, it is not evidence of full cooperation by a long shot.

More telling however, is the state of affairs with the much-vaunted Bilateral Border Task Forces located in Tijuana, Ciudad Juarez and Matamoros. Each Task Forces was supposed to include Mexican agents, and two agents each from DEA, FBI, and the U.S. Customs Service. But, regretfully, the Task Forces are not operational because some Mexican agents, and even comandantes, have been under suspicion of, or arrested for, ties to criminal organizations.

The old Task Forces were dismantled after the arrest of General Gutierrez-Rebollo and have been rebuilt since then. But the Mexican government for a long time did not provide the promised funding, leaving DEA to carry the full cost, which they did until September of last year.

Additionally, the issue of personal security for U.S. agents working with the Bilateral Task Forces in Mexico has not been resolved and, as a result, the task forces are not operational and will not be until the security issue is resolved.

The bottom line is that the task forces cannot function properly without DEA and other federal law enforcement agents working side by side with their Mexican counterparts, as is the case with similar units in Colombia and Peru. This critical joint working relationship is made impossible by Mexican policies that do not allow for adequate immunities or physical security for U.S. Special Agents while working in Mexico.

A related problem for the Task Forces is the low quality of intelligence provided by Mexico. To my knowledge there have been no meaningful intelligence leads from Mexican agents to their American counterparts leading to a single significant seizure of drugs coming into this country.

Intelligence sharing simply does not flow north.

U.S. law enforcement officials indicate that Mexico's drug intelligence facilities located near the Task Forces are manned by non-vetted, non-law enforcement civilians and military staff and have only produced leads from telephone intercepts on low-level traffickers. To date, none of the electronic intercepts conducted by the Task Forces have produced a prosecutable drug case in Mexican courts against any major Mexican criminal organization.

To its credit, the Organized Crime Unit does have several major on-going investigations underway. But only 140 of the planned 280 prosecutors, investigators and support personnel have been hired, and only 25 have been ''super-vented.'' Again, this unit is promising, but it is still too early to tell whether it will maintain the integrity, or have the staffing, training and resources to be effective partners in the war against drugs.

ENFORCEMENT

Mexico's seizures of cocaine have increased from 23.6 metric tons in 1996 to 34.9 metric tons in 1997—although that is still far below the average of 45 metric tons in 1991–1993. Marijuana seizures did reach an all-time high.

Unfortunately, seizures of heroin, methamphetamine, and ephedrine are all down sharply. Heroin seizures fell from 363 kilograms to 115 kilograms. Methamphetamine seizures fell from 172 kilograms to only 39 kilograms. Ephedrine seizures fell dramatically from 6,697 kilograms to only 608 kilograms.

Drug related arrests declined from an already low 11,283 to 10,622, barely a third of the number arrested in 1992. Less than half as many weapons were seized in 1997 (1,892) as in 1996 (4,335).

In another crucial enforcement area, Mexico's new money-laundering statutes have yet to be fully enforced, and have not resulted in any successful prosecutions yet. Mexico has decided to make violations of new banking regulations non-criminal violations, which severely undercuts the deterrent factor.

Mexico's Organized Crime Statute has yet to be fully implemented. The Government of Mexico has advised that the lack of judicial support and known judicial corruption have frustrated implementation of the wire intercept aspects of the law.

But let us be honest with ourselves. The statute asks the President to certify that a country has ''cooperated fully'' with the United States. If Mexico has cooperated in three or four areas, and not cooperated in ten or twelve others, can we really call that full cooperation. Of course not. At best, we should say that Mexico has cooperated partially with the United States in counternarcotics efforts. But full cooperation? It's not even close.

We must make an honest assessment. To those who dislike the certification statute, I quote again from the New York Times editorial ''* * * as long as certification remains on the books, the Administration has a duty to report truthfully to Congress and the American people. It has failed to do so in the case of Mexico.''

So in the wake of the President's decision to certify Mexico, I believe we in Congress have no choice but to try to pass a resolution of disapproval. If possible, we will pass one with a waiver of sanctions. But if not, we will have to vote on the straight resolution of disapproval. We have until March 28 to decide.

Mr. President, we must make an honest assessment of full cooperation, and there is only one way to assess full cooperation, and it is on the streets. It is with extradition. It is with arrest of cartel leaders. It is with letting our DEA agents who work the Mexican side of the border have their security—meaning beyond. You cannot send them across the border without a mechanism to protect them. None of this is happening today.

The big, highly touted drug agreement, which I read, talks about the size and shape of the table. There are no specifics.

In view of this, I urge decertification with a waiver.

ADDITIONAL COSPONSORS

S. 61

At the request of Mr. LOTT, the name of the Senator from South Dakota (Mr. DASCHLE) 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. 89

At the request of Ms. SNOWE, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 320

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from

Massachusetts (Mr. KERRY) was added as a cosponsor of S. 320, a bill to amend the Internal Revenue Code of 1986 to provide comprehensive pension protection for women.

S. 412

At the request of Mr. SMITH, his name was withdrawn as a cosponsor of S. 412, a bill to provide for a national standard to prohibit the operation of motor vehicles by intoxicated individuals.

S. 712

At the request of Mr. MOYNIHAN, the names of the Senator from Mississippi (Mr. LOTT) and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 712, a bill to provide for a system to classify information in the interests of national security and a system to declassify such information.

S. 1305

At the request of Mr. GRAMM, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from North Carolina (Mr. FAIRCLOTH) were added as cosponsors of 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.

S. 1335

At the request of Ms. SNOWE, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1335, a bill to amend title 5, United States Code, to ensure that coverage of bone mass measurements is provided under the health benefits program for Federal employees.

S. 1365

At the request of Ms. MIKULSKI, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 1365, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 1580

At the request of Mr. SHELBY, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1580, a bill to amend the Balanced Budget Act of 1997 to place an 18-month moratorium on the prohibition of payment under the medicare program for home health services consisting of venipuncture solely for the purpose of obtaining a blood sample, and to require the Secretary of Health and Human Services to study potential fraud and abuse under such program with respect to such services.

S. 1596

At the request of Mr. COVERDELL, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 1596, a bill to provide for reading excellence.

S. 1682

At the request of Mr. D'AMATO, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN) was added as a cosponsor of S. 1682, a bill to amend the Internal Revenue Code of 1986 to repeal joint and several liability of spouses on joint returns of Federal income tax, and for other purposes.

SENATE CONCURRENT RESOLUTION 77

At the request of Mr. SESSIONS, the names of the Senator from Mississippi (Mr. LOTT) and the Senator from Alabama (Mr. SHELBY) were added as cosponsors of Senate Concurrent Resolution 77, a concurrent resolution expressing the sense of the Congress that the Federal government should acknowledge the importance of at-home parents and should not discriminate against families who forego a second income in order for a mother or father to be at home with their children.

SENATE RESOLUTION 155

At the request of Mr. LOTT, the names of the Senator from Florida (Mr. MACK), the Senator from Nevada (Mr. REID), and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of Senate Resolution 155, a resolution designating April 6 of each year as ''National Tartan Day'' to recognize the outstanding achievements and contributions made by Scottish Americans to the United States.

SENATE RESOLUTION 170

At the request of Mr. SPECTER, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of Senate Resolution 170, a resolution expressing the sense of the Senate that the Federal investment in biomedical research should be increased by $2,000,000,000 in fiscal year 1999.

SENATE RESOLUTION 175

At the request of Mr. ROBB, the names of the Senator from Georgia (Mr. CLELAND), the Senator from Maine (Ms. COLLINS), the Senator from Ohio (Mr. DEWINE), the Senator from Illinois (Mr. DURBIN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from California (Mrs. FEINSTEIN), the Senator from Texas (Mrs. HUTCHISON), the Senator from Indiana (Mr. LUGAR), the Senator from New York (Mr. MOYNIHAN), and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of Senate Resolution 175, a bill to designate the week of May 3, 1998 as ''National Correctional Officers and Employees Week.''

SENATE RESOLUTION 187

At the request of Mr. MACK, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of Senate Resolution 187, a resolution expressing the sense of the Senate regarding the human rights situation in the People's Republic of China.

SENATE RESOLUTION 188—CONCERNING ISRAELI MEMBERSHIP IN A UNITED NATIONS REGIONAL GROUP

Mr. MOYNIHAN (for himself, Mr. LUGAR, Mr. D'AMATO, Mr. KENNEDY, Mr. TORRICELLI, Mr. HOLLINGS, Mr. ROBB, Mr. SANTORUM, Mr. KYL, Mr. AKAKA, Mr. LIEBERMAN, Mr. ALLARD, Mr. COCHRAN, Mr. GRAHAM, Mr. GRASSLEY, Mr. WYDEN, Mr. FAIRCLOTH, Mrs. MURRAY, Mr. KOHL, Mr. MACK, Ms. MIKULSKI, Mr. CRAIG, Mr. BURNS, Mr. BROWNBACK, Mr. DODD, Mr. DORGAN, Mr. ROCKEFELLER, Mr. SMITH of Oregon, Mr. HATCH, Mr. LAUTENBERG, Mr. REID, Mr. COVERDELL, Mr. ENZI, Mr. GRAMM, Mr. KEMPTHORNE, Mr. HELMS, Mr. BAUCUS, Ms. COLLINS, Mr. COATS, Mr. GRAMS, Mrs. FEINSTEIN, Mr. SARBANES, Mr. DEWINE, and Mr. SMITH of New Hampshire) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 188

Whereas, of the 185 member states of the United Nations, only the State of Israel is ineligible to sit on the Security Council, the Economic and Social Council, or any other United Nations committee;

Whereas the State of Israel was created in response to a 1947 General Assembly resolution and joined the United Nations in 1949;

Whereas the members of the United Nations have organized themselves according to regional groups since 1946;

Whereas eligibility for election to the rotating seats of the Security Council, or other United Nations councils, commissions, or committees, is only available to countries belonging to a regional group;

Whereas Israel has remained a member of the United Nations despite being subjected to deliberate attacks which aimed to place the legitimacy of the State of Israel in question;

Whereas this anachronistic Cold War isolation of Israel at the United Nations continues;

Whereas barring a member of the United Nations from entering a regional group is inimical to the principles under which the United Nations was founded, namely, ''to develop friendly relations among nations based on respect for the principle of equal rights . . .''; and

Whereas Israel is a vibrant democracy, which shares the values, goals, and interests of the ''Western European and Others Group'', a regional group which includes Australia, Canada, New Zealand, and the United States: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) it should be the policy of the United States to support the State of Israel's efforts to enter an appropriate United Nations regional group;

(2) the President should instruct the Permanent Representative of the United States to the United Nations to carry out this policy;

(3) the United States should—

(A) insist that any effort to expand the United Nations Security Council also resolves this anomaly; and

(B) ensure that the principle of sovereign equality be upheld without exception; and

(4) the Secretary of State should submit a report to Congress on the steps taken by the United States, the Secretary General of the United Nations, and others to help secure Israel's membership in an appropriate United Nations regional group.

SENATE RESOLUTION 189—HONORING THE 150TH ANNIVERSARY OF THE U.S. WOMEN'S RIGHTS MOVEMENT

Mr. TORRICELLI (for himself, Ms. LANDRIEU, Mrs. BOXER, Ms. SNOWE, Mrs. MURRAY, and Mr. DASCHLE) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 189

Whereas 1998 will mark the 150th anniversary of the Women's Rights Movement in the United States, a valiant civil rights movement that began in 1848 when the Women's Rights Convention was held in Seneca Falls, New York;

Whereas the Declaration of Sentiments, the document issued by the Women's Rights Convention, is a strong reflection of this country's commitment to liberty and personal freedom;

Whereas the Women's Rights Movement has had an irreversible effect on the opportunities open to women in all areas of life, including business, education, religion, the arts, science, and athletics;

Whereas the history surrounding the fight for women's equality over the past century and a half is still greatly unknown and unrecognized by many of our Nation's citizens and demands more acknowledgment in our children's curriculum;

Whereas there is an ever-increasing need for both women and men to share in the fundamental responsibilities of our national life with a full and equal participation in society; and

Whereas March 1998, is National Women's History Month, celebrated with the theme of ''Living the Legacy of Women's Rights'': Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and celebrates 1998 as the 150th anniversary of the Women's Rights Movement and March 1998 as National Women's History Month under the theme ''Living the Legacy of Women's Rights''; and

(2) calls on educators, government officials, and businesses to celebrate the legacy of the Women's Rights Movement and remember the struggle that began 150 years ago.

SENATE RESOLUTION 190—REGARDING REDUCTIONS IN CLASS SIZE

Mr. FEINGOLD (for himself and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 190

Whereas long-range projections by the Bureau of the Census indicate a rising number of births, rising to 4,200,000 in 2010 and 4,600,000 in 2020;

Whereas in the coming years the population of school-aged children is expected to increase to a record 52,200,000;

Whereas academic achievement for all students is one of our Nation's highest priorities;

Whereas increased enrollments have resulted in a further increase of the average class size;

Whereas research has shown that children in small classes in the earliest grades achieve better academically than the peers of such children in larger classes;

Whereas research has shown substantial lasting benefits for children who were in small classes during the earliest grades;

Whereas smaller classes allow students to receive more individual attention from their teachers, and reduce teachers' burden of managing large numbers of students and the other work of the teachers; and

Whereas several States have been forward thinking in trying to address this classroom size problem: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) experiments in reducing class size have had an effect on academic achievement in the earliest grades; and

(2) the Senate should seek to assist States in the efforts of States to reduce class size and access the benefits of such a reduction.

Mr. FEINGOLD. Mr. President, I rise today to submit a Senate resolution regarding smaller classes in our public schools.

This resolution expresses the Senate's strong sense that experiments in reducing class size in the earliest grades demonstrate a proven educational benefit. Accordingly, the Senate should assist States in their efforts to reduce class size and assess the benefits of such reductions.

Mr. President, yesterday I visited the Parkview Elementary School in Cudahy, a community near Milwaukee, where I had the chance to read Dr. Seuss' classic children's story, ''Green Eggs and Ham,'' to a group of 15 first-grade students. It was exciting to watch their faces come alive with curiosity as they listened.

Parkview Elementary is a special school because it is one of 30 Wisconsin schools in 21 school districts that are participating in the Student Achievement Guarantee in Education program, or the SAGE program. It is a very popular pilot program and, according to an independent evaluation being conducted by the University of Wisconsin-Milwaukee's, Center for Urban Initiatives and Research, it's been very effective at reducing the size of elementary school classes. SAGE is a very appropriate acronym, for a sage is a teacher who imparts knowledge and wisdom through direct interaction with his or her students, and the SAGE program in Wisconsin is trying to give students and teachers more opportunities to interact directly, which improves learning.

SAGE is a pilot program created by the Wisconsin legislature in 1995. The specific objective of the program is to improve student achievement through four reform strategies: (1) reducing student/teacher ratios to a maximum of 15-to-1, which was the size of the first-grade class I visited yesterday; (2) increasing cooperation between schools and their surrounding communities; (3) implementing a rigorous academic curriculum stressing achievement; and, finally, (4) improving staff development and evaluation. A modest amount of state aid is available to schools who adopt the SAGE program, which currently covers kindergarten through the second grade, and which is scheduled to be expanded to cover third grade in the near future.

SAGE has proven to be very popular with parents, teachers, school administrators and students. Reports from Wisconsin educators indicate improvements in classroom environment and academic performance in schools participating in this program. A December 1997 study found that first-graders participating in SAGE scored higher on standardized tests than other students in comparison schools. The SAGE program has demonstrated again what we know instinctively: students in smaller classes benefit from more attention from teachers, and teachers with fewer pupils will have more time and energy to devote to their jobs. Class size has been proven to be one of the crucial factors in the quality of a child's education, along with teacher quality and parental involvement.

The SAGE program and this resolution will reinforce what should be good, common sense. If you have smaller classes, children get more attention from teachers, and it stands to reason that more attention will translate into more learning.

Mr. President, I think the Wisconsin experience with this kind of common-sense educational reform is instructive.

That is why, last fall, I included an amendment to the Labor and Health and Human Services Departments' 1998 appropriation bill requiring the Department of Education to study the costs and benefits of reducing class size in the earliest grades. My amendment also required the Department to prepare cost estimates of growing enrollments and to follow-up with policy recommendations. In addition, I wrote earlier this year to President Clinton in January requesting that he make reducing class size a priority in his FY 99 education budget. I was pleased that the President's FY 99 budget includes an initiative to help schools provide small classes with qualified teachers in the early grades. Mr. President, in an effort to spread the message of the successful SAGE pilot program, I recently invited Education Secretary Richard Riley to come to Wisconsin for a tour of several SAGE schools.

And, finally, most recently, I have written to the chairman and ranking member of the Labor and Human Resources Committee requesting that the committee hold a hearing to examine the options available to schools as they plan for smaller class size with higher anticipated student enrollment looming.

A recent Department of Education report states that this year's elementary and secondary student enrollment will soon be at record levels. School districts are going to need to adapt to these increases while many of them rightly will be investing as much as they can in the creation of smaller classes for early elementary students.

Addressing the problem of increasing enrollment and the desire to reduce class size presents a great challenge to our communities, our States and our Nation. As I say that, I want to be very

clear that I believe that the American public school system is rooted in the vision of Thomas Jefferson. He saw a future where every child in the Nation could look forward to a thorough public education, comparable in quality but under local control. I want it to be clear that when I speak about small class size as a national goal, it is in the context of local control. So I do not support a national mandate for smaller class size.

I believe that any distribution formula for the funds should give credit to and not penalize those States, such as Wisconsin, which have gotten ahead of this and have invested some resources.

I also believe very firmly that any national funding in this area has to be paid for. It cannot be done on the basis of deficit spending or, in effect, borrowing from Social Security.

But with those qualifications, I reiterate that there is a great national purpose in trying to reduce class sizes for children. Therefore, the Federal Government has a limited but important role in ensuring that the Nation makes the proper investments in students today so that it can meet the challenges of the 21st century.

Mr. President, we should take the necessary steps now to help school districts reduce class size as part of an overall effort to improve education and ensure that our children have the best chance to excel and reach their full potential.

Mr. WELLSTONE. Mr. President, I thank my colleague, Senator FEINGOLD, for his remarks about smaller class size and the importance of education. His remarks are very important, and I associate myself with and support his resolution.

AMENDMENTS SUBMITTED

THE INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1998

WELLSTONE AMENDMENT NO. 1679

Mr. WELLSTONE proposed an amendment to amendment No. 1676 proposed by Mr. CHAFEE to the bill (S. 1173) to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes; as follows:

On page 309, between lines 3 and 4, insert the following:

SEC. 18___. REPORT ON THE STATUS OF FORMER TANF RECIPIENTS.

Section 413 of the Social Security Act (42 U.S.C. 613) is amended by adding at the end the following:

''(k) REPORT ON THE STATUS OF FORMER TANF RECIPIENTS.—

''(1) DEVELOPMENT OF PLAN.—The Secretary shall develop a plan to assess, to the extent possible based on all available information, the number and percentage of former recipients of assistance under the State programs funded under this part that are, as of the date that the assessment is performed, economically self-sufficient. In determining economic self-sufficiency, the Secretary shall consider—

''(A) the number and percentage of such recipients that are, as of the date of the assessment, employed;

''(B) the number and percentage of such recipients earning incomes at or above 150 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section for a family of the size involved); and

''(C) the number and percentage of such recipients that have access to housing, transportation, and child care.

''(2) REPORTS TO CONGRESS.—Beginning 4 months after the date of enactment of this subsection, the Secretary shall submit biannual reports to the appropriate committees of Congress on the assessment conducted under this subsection. The reports shall analyze the ability of former recipients of assistance under the State programs funded under this part to achieve economic self-sufficiency. The Secretary shall include in the reports all available information about the economic self-sufficiency of such recipients, including data from quarterly State reports submitted to the Department of Health and Human Services (in this paragraph referred to as the 'Department'), data from State applications submitted to the Department for bonuses, and to the extent the Secretary determines they are relevant to the assessment—

''(A) reports prepared by the Comptroller General of the United States;

''(B) samples prepared by the Bureau of the Census;

''(C) surveys funded by the Department;

''(D) studies conducted by the Department;

''(E) studies conducted by States;

''(F) surveys conducted by non-governmental entities;

''(G) administrative data from other Federal agencies; and

''(H) information and materials available from any other appropriate source.''.

McCAIN (AND HOLLINGS) AMENDMENT NO. 1680

Mr. MCCAIN (for himself and Mr. HOLLINGS) proposed an amendment to amendment No. 1676 proposed by Mr. CHAFEE to the bill, S. 1173, supra; as follows:

On page 4, before line 1, insert the following:

TITLE III—INTERMODAL TRANSPORTATION SAFETY AND RELATED MATTERS

Sec. 3001. Short title.
Sec. 3002. Amendment of title 49, United States Code.

Subtitle A—Highway Safety

Sec. 3101. Highway safety programs.
Sec. 3102. National driver register.
Sec. 3103. Authorizations of appropriations.
Sec. 3104. Motor vehicle pursuit program.
Sec. 3105. Enforcement of window glazing standards for light transmission.

Subtitle B—Hazardous Materials Transportation Reauthorization

Sec. 3201. Findings and purposes; definitions.
Sec. 3202. Handling criteria repeal.
Sec. 3203. Hazmat employee training requirements.
Sec. 3204. Registration.
Sec. 3205. Shipping paper retention.
Sec. 3206. Public sector training curriculum.
Sec. 3207. Planning and training grants.
Sec. 3208. Special permits and exclusions.
Sec. 3209. Administration.
Sec. 3210. Cooperative agreements.
Sec. 3211. Enforcement.
Sec. 3212. Penalties.
Sec. 3213. Preemption.
Sec. 3214. Judicial review.
Sec. 3215. Hazardous material transportation reauthorization.
Sec. 3216. Authorization of appropriations.

Subtitle C—Comprehensive One-Call Notification

Sec. 3301. Findings.
Sec. 3302. Establishment of one-call notification programs.

Subtitle D—Motor Carrier Safety

Sec. 3401. Statement of purposes.
Sec. 3402. Grants to States.
Sec. 3403. Federal share.
Sec. 3404. Authorization of appropriations.
Sec. 3405. Information systems and strategic safety initiatives.
Sec. 3406. Improved flow of driver history pilot program.
Sec. 3407. Motor carrier and driver safety research.
Sec. 3408. Authorization of appropriations.
Sec. 3409. Conforming amendments.
Sec. 3410. Automobile transporter defined.
Sec. 3411. Repeal of review panel; review procedure.
Sec. 3412. Commercial motor vehicle operators.
Sec. 3413. Penalties.
Sec. 3414. International registration plan and international fuel tax agreement.
Sec. 3415. Study of adequacy of parking facilities.
Sec. 3416. Application of regulations.
Sec. 3417. Authority over charter bus transportation.
Sec. 3418. Federal motor carrier safety investigations.
Sec. 3419. Foreign motor carrier safety fitness.
Sec. 3420. Commercial motor vehicle safety advisory committee.
Sec. 3421. Waivers; exemptions; pilot programs.
Sec. 3422. Commercial motor vehicle safety studies.
Sec. 3423. Increased MCSAP participation impact study.
Sec. 3424. Exemption from certain regulations for utility service commercial motor vehicle drivers.
Sec. 3425. Waivers for certain farm vehicles.
Sec. 3426. Farm service vehicles.

Subtitle E—Rail and Mass Transportation Anti-Terrorism; Safety

Sec. 3501. Purpose.
Sec. 3502. Amendments to the ''wrecking trains'' statute.
Sec. 3503. Terrorist attacks against mass transportation.
Sec. 3504. Investigative jurisdiction.
Sec. 3505. Safety considerations in grants or loans to commuter railroads.
Sec. 3506. Railroad accident and incident reporting.
Sec. 3507. Mass transportation buses.

Subtitle F—Sportfishing and Boating Safety

Sec. 3601. Amendment of 1950 Act.
Sec. 3602. Outreach and communications programs.
Sec. 3603. Clean Vessel Act funding.
Sec. 3604. Boating infrastructure.
Sec. 3605. Boat safety funds.

Subtitle G—Miscellaneous

Sec. 3701. Light density rail line pilot projects.

At the end of the bill, add the following:

TITLE III—INTERMODAL TRANSPORTATION SAFETY AND RELATED MATTERS

SEC. 3001. SHORT TITLE.

This title may be cited as the ''Intermodal Transportation Safety Act of 1997''.

SEC. 3002. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title 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.

Subtitle A—Highway Safety

SEC. 3101. 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) in paragraph (1)(C), by inserting '', including Indian tribes,'' after ''subdivisions of such State'';

(3) in paragraph (1)(C), by striking the period at the end and inserting a semicolon and ''and''; and

(4) 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—

(1) by inserting ''the apportionment to the Secretary of the Interior shall not be less than ¾ 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 title 23, United States Code, is amended to read as follows:

''(i) APPLICATON 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 subsection (b)(1)(C), 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) 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 title 23, United States Code, 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 title 23, United States Code, is amended by striking subsection (k) and inserting the following:

''(k) SAFETY INCENTIVE GRANTS.—

''(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*) or (m) or section 410. A State may qualify for more than 1 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) 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) 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 1 or more of 3 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 that 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 subparagraph (A)(i) shall take effect not later than 30 days after the date 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 3-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 subparagraph (A)(i) 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) .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 appropriated 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. 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, 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 SENSORS.—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 year of age. The Secretary shall determine what penalties are effective.

''(6) DEFINITIONS.—For the purposes of this subsection, the following definitions apply:

''(A) 'Alcoholic beverage' has the meaning such term has under section 158(c).

''(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) that contains any amount of an alcoholic beverage; and

''(ii)(I) that 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 multidisciplinary 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 multiyear 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 (i) and (ii) of subparagraph (A);

''(ii) a multiyear 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 multiyear plan described in clause (ii).

''(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 paragraph (1)(A) shall equal $1,000,000, subject to the availability of appropriations, and for any State eligible for such a grant under paragraph (1)(B) of this subsection shall equal a proportional amount of the amount apportioned to the State for fiscal year 1997 under section 402, 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 1 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 multiyear 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 multiyear plan.

''(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, 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 1 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; PUBLIC AWARENESS PROGRAM.—The State has in effect—

''(i) 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; and

''(ii) an effective public awareness program that advocates placing passengers under the age of 13 in the back seat of a motor vehicle equipped with a passenger-side air bag whenever possible.

''(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 3 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 statewide 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.

''(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 supplement grant in a fiscal year of up to 5 percent of the amount apportioned to the State in fiscal year 1997 under section 402. 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 NONMEDICAL 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) SAFET 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, the term—

''(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) '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 title 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. 3102. NATIONAL DRIVER REGISTER.

(a) TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.—Section 30302 is amended by adding at the end 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) 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 section 30304(a)(3) and over whom the department or agency has licensing authority. The report shall contain the information specified in section 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), respectively; and

(4) by striking ''paragraph (2)'' in paragraph (10), as redesignated, and inserting ''subsection (a)''.

SEC. 3103. AUTHORIZATIONS OF APPROPRIATIONS.

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 subsections (*l*) and (m) 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 403(*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 section 402(*l*) of title 23, United States Code, are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under section 402(*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 section 410 of title 23, United States Code, are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under section 410 of title 23, United States Code, to subsections (*l*) and (m) 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 section 402(m) 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 section 402(m) of title 23, United States Code, 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.

(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—

(A) $1,605,000 for fiscal year 1998;
(B) $1,680,000 for fiscal year 1999;
(C) $1,726,000 for fiscal year 2000;
(D) $1,772,000 for fiscal year 2001;
(E) $1,817,000 for fiscal year 2002; and
(F) $1,872,000 for fiscal year 2003.

SEC. 3104. MOTOR VEHICLE PURSUIT PROGRAM.

(a) MOTOR VEHICLE PURSUIT PROGRAM.—

(1) TRAINING.—Section 403(b)(1) of title 23, United States Code, as amended by section 3101(h), is amended by adding at the end thereof the following:

''(D) Programs to train law enforcement officers on motor vehicle pursuits conducted by law enforcement officers.''.

(2) FUNDING.—Out of amounts appropriated to carry out section 403 of title 23, United States Code, the Secretary of Transportation may use such amounts as may be necessary to carry out the motor vehicle pursuit training program of section 403(b)(1)(D) of title 23, United States Code, but not in excess of $1,000,000 for each of fiscal years 1999, 2000, 2001, 2002, and 2003.

(b) REPORT OF FEDERAL POLICIES AND PROCEDURES.—Not later than 180 days after the date of enactment of this Act, the Attorney General of the United States, the Secretary of Agriculture, the Secretary of the Interior, the Secretary of the Treasury, the Chief of Capitol Police, and the Administrator of General Services shall each transmit to Congress a report containing—

(1) the policy of the department or agency headed by that individual concerning motor vehicle pursuits by law enforcement officers of that department or agency; and

(2) a description of the procedures that the department or agency uses to train law enforcement officers in the implementation of the policy referred to in paragraph (1).

SEC. 3105. 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.''.

Subtitle B—Hazardous Materials Transportation Reauthorization

SEC. 3201. FINDINGS AND PURPOSES; DEFINITIONS.

(a) FINDINGS AND PURPOSES.—Section 5101 is amended to read as follows:

''§ 5101. Findings and purposes

''(a) FINDINGS.—Congress finds with respect to hazardous materials transportation that—

''(1) approximately 4,000,000,000 tons of regulated hazardous materials are transported each year and that approximately 1,000,000 movements of hazardous materials occur each day, according to 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) by 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, or

''(iii) has at least 1 employee; and

''(B) performs a function, or uses at least 1 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 if performing a function related to highway transportation.'';

(4) by redesignating paragraphs (9) through (13) as paragraphs (12) through (16), respectively;

(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 '', 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. 3202. 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. 3203. HAZMAT EMPLOYEE TRAINING REQUIREMENTS.

Section 5107(f)(2) is amended by striking ''and section 5106, and subsections (a) through (g)(1) and (h) of section 5108(a), and 5109 of this title''.

SEC. 3204. 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 (i)(2)(B) after ''State,''.

SEC. 3205. SHIPPING PAPER RETENTION.

Section 5110(e) is amended by striking the first sentence and inserting ''After expiration of the requirement in subsection (c), the person who provided the shipping paper and the carrier required to maintain it under subsection (a) 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. 3206. PUBLIC SECTOR TRAINING CURRICULUM.

Section 5115 is amended—

(1) in subsection (a), by striking ''DEVELOPMENT AND UPDATING.—Not later than November 16, 1992, in'' and inserting ''UPDATING.—In'';

(2) in the first sentence of subsection (a), by striking ''develop and'';

(3) in subsection (a), by striking the second sentence;

(4) in the first sentence of subsection (b), by striking ''developed'';

(5) in subparagraphs (A) and (B) of subsection (b)(1), by inserting ''or involving an alternative fuel vehicle'' after ''material''; and

(6) by striking subsection (d) and inserting the following:

''(d) DISTRIBUTION 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 material.''.

SEC. 3207. 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, or 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. 3208. SPECIAL PERMITS AND EXCLUSIONS.

(a) Section 5117 is amended—

(1) by striking the section heading 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) in subsection (a)(2), by striking ''2'' and inserting ''4''.

(b) Section 5119(c) is amended by adding at the end 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. 3209. ADMINISTRATION.

(a) Section 5121 is amended by striking subsections (a), (b), and (c) and redesignating subsections (d) and (e) as subsections (a) and (b), respectively.

(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. 3210. COOPERATIVE AGREEMENTS.

Section 5121, as amended by section 3209(a), is further amended by adding at the end thereof the following:

''(f) 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. 3211. ENFORCEMENT.

Section 5122, as amended by section 3209(b), is further amended—

(1) in the first sentence of subsection (a), by inserting ''inspect,'' after ''may'';

(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.''; and

(3) 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. 3212. PENALTIES.

(a) IN GENERAL.—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) DEGREE OF CULPABILITY.—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) CRIMINAL PENALTY.—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. 3213. PREEMPTION.

(a) REQUIREMENTS CONTRARY TO PURPOSES OF CHAPTER.—Section 5125(a)(2) is amended by inserting '', 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. 3214. JUDICIAL REVIEW.

(a) IN GENERAL.—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), a person disclosing a substantial interest in a final order issued, under the authority of section 5122 or 5123, 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) CLERICAL AMENDMENT.—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. 3215. HAZARDOUS MATERIAL TRANSPORTATION REAUTHORIZATION.

(a) IN GENERAL.—Chapter 51, as amended by section 3214 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 after the date of enactment of that Act.

''(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. 3216. 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) for each of the fiscal years ending September 30, 1999–2003, to carry out section 5115.

''(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) 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).

''(2) Not more than $3,666,000 is available to the Secretary of Transportation from the account established under section 5116(i) 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).

''(3) Not more than $600,000 is available to the Secretary of Transportation from the account established under section 5116(i) 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).''.

Subtitle C—Comprehensive One-Call Notification

SEC. 3301. FINDINGS.

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. 3302. 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 1 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 in 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, regulations, 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 underground 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 the 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 one-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;

''(7) how one-call notification systems address the need for rapid response to situations where the need to excavate is urgent;

''(8) the extent to which accidents occur due to errors in marking of underground facilities, untimely marking or errors in the excavation process after a one-call notification system has been notified of an excavation;

''(9) the extent to which personnel engaged in marking underground facilities may be endangered;

''(10) the characteristics of damage prevention programs the Secretary believes could be relevant to the effectiveness of State one-call notification programs; and

''(11) the effectiveness of penalties and enforcement activities under State one-call notification programs in obtaining compliance with program requirements.

''(c) REPORT.—Within 1 year after the date of the enactment of the Intermodal Transportation Safety Act of 1997, the Secretary shall publish a report identifying those practices of one-call notification systems that are the most and least successful in—

''(1) preventing damage to underground facilities; and

''(2) providing effective and efficient service to excavators and underground facility operators.

The Secretary shall encourage States and operators of one-call notification programs to adopt and implement the most successful practices identified in the report.

''(d) SECRETARIAL DISCRETION.—Prior to undertaking the study described in subsection (a), the Secretary shall determine whether timely information described in subsection (b) is readily available. If the Secretary determines that such information is readily available, the Secretary is not required to carry out the study.

''§ 6106. Grants to States

''(a) IN GENERAL.—The Secretary may make a grant of financial assistance to a State that qualifies under section 6104(b) to assist in improving—

''(1) the overall quality and effectiveness of one-call notification systems in the State;

''(2) communications systems linking one-call notification systems;

''(3) location capabilities, including training personnel and developing and using location technology;

''(4) record retention and recording capabilities for one-call notification systems;

''(5) public information and education;

''(6) participation in one-call notification systems; or

''(7) compliance and enforcement under the State one-call notification program.

''(b) STATE ACTION TAKEN INTO ACCOUNT.—In making grants under this section the Secretary shall take into consideration the commitment of each State to improving its State one-call notification program, including legislative and regulatory actions taken by the State after the date of enactment of the Intermodal Transportation Safety Act of 1997.

''(c) FUNDING FOR ONE-CALL NOTIFICATION SYSTEMS.—A State may provide funds received under this section directly to any one-call notification system in such State that substantially adopts the best practices identified under section 6105.

''§ 6107. Authorization of appropriations

''(a) FOR GRANTS TO STATES.—There are authorized to be appropriated to the Secretary in fiscal year 1999 no more than $1,000,000 and in fiscal year 2000 no more than $5,000,000, to be available until expended, to provide grants to States under section 6106.

''(b) FOR ADMINISTRATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary during fiscal years 1998, 1999, and 2000 to carry out sections 6103, 6104, and 6105.

''(c) GENERAL REVENUE FUNDING.—Any sums appropriated under this section shall be derived from general revenues and may not be derived from amounts collected under section 60301 of this title.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of chapters for subtitle III is amended by adding at the end thereof the following:

''61. One-Call Notification Program .... 6101''.

(2) Chapter 601 is amended—

(A) by striking ''sections 60114 and'' in section 60105(a) of that chapter and inserting ''section'';

(B) by striking section 60114 and the item relating to that section in the table of sections for that chapter;

(C) by striking ''60114(c), 60118(a),'' in section 60122(a)(1) of that chapter and inserting ''60118(a),'';

(D) by striking ''60114(c) or'' in section 60123(a) of that chapter;

(E) by striking ''sections 60107 and 60114(b)'' in subsections (a) and (b) of section 60125 and inserting ''section 60107'' in each such subsection; and

(F) by striking subsection (d) of section 60125, and redesignating subsections (e) and (f) of that section as subsections (d) and (e), respectively.

Subtitle D—Motor Carrier Safety

SEC. 3401. STATEMENT OF PURPOSES.

Chapter 311 is amended—

(1) by inserting before section 31101 the following:

''§ 31100. Purpose

''The purposes of this subchapter are—

''(1) to improve commercial motor vehicle and driver safety;

''(2) to facilitate efforts by the Secretary, States, and other political jurisdictions, working in partnership, to focus their resources on strategic safety investments;

''(3) to increase administrative flexibility;

''(4) to improve enforcement activities;

''(5) to invest in activities related to areas of the greatest crash reduction;

''(6) to identify high risk carriers and drivers; and

''(7) to improve information and analysis systems.''; and

(2) by inserting before the item relating to section 31101 in the chapter analysis for chapter 311 the following:

''31100. Purposes.''.

SEC. 3402. GRANTS TO STATES.

(a) PERFORMANCE-BASED GRANTS.—Section 31102 is amended—

(1) in subsection (a), by inserting ''improving motor carrier safety and'' after ''programs for''; and

(2) in the first sentence of subsection (b)(1), by striking ''adopt and assume responsibility for enforcing'' and inserting ''assume responsibility for improving motor carrier safety and to adopt and enforce''.

(b) HAZARDOUS MATERIALS.—Section 31102 is amended—

(1) in subsection (a), by inserting a comma and ''hazardous materials transportation safety,'' after ''commercial motor vehicle safety''; and

(2) in the first sentence of subsection (b), by inserting '', hazardous materials transportation safety,'' after ''commercial motor vehicle safety''.

(c) CONTENTS OF STATE PLANS.—Section 31102(b)(1) is amended—

(1) by redesignating subparagraphs (A) through (Q) as subparagraphs (B) through (R), respectively;

(2) by inserting before subparagraph (B), as redesignated, the following:

''(A) implements performance-based activities by fiscal year 2000;''

(3) by inserting ''(1)'' in subparagraph (K), as redesignated, after ''(c)'';

(4) by striking subparagraphs (L), (M), and (N) as redesignated, and inserting the following:

''(L) ensures consistent, effective, and reasonable sanctions;

''(M) ensures that the State agency will coordinate the plan, data collection, and information systems with the State highway safety programs under title 23;

''(N) ensures participation in SAFETYNET by all jurisdictions receiving funding;'';

(5) in subparagraph (P), as redesignated, by striking ''activities—'' and inserting ''activities in support of national priorities and performance goals including—'';

(6) in clause (i) of subparagraph (P), as redesignated, by striking ''to remove'' and inserting ''activities aimed at removing''; and

(7) in clause (ii) of subparagraph (P), as redesignated, by striking ''to provide'' and inserting ''activities aimed at providing''.

SEC. 3403. FEDERAL SHARE.

Section 31103 is amended—

(1) by inserting before ''The Secretary of Transportation'' the following:

''(a) COMMERCIAL MOTOR VEHICLE SAFETY PROGRAMS AND ENFORCEMENT.—'';

(2) by inserting ''improve commercial motor vehicle safety and'' in the first sentence before ''enforce''; and

(3) by adding at the end the following:

''(b) OTHER ACTIVITIES.—The Secretary may reimburse State agencies, local governments, or other persons up to 100 percent for those activities identified in 31104(f)(2).''.

SEC. 3404. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 31104(a) is amended to read as follows:

''(a) IN GENERAL.—Subject to section 9503(c)(1) of the Internal Revenue Code of 1986, there are available from the Highway Trust Fund (except the Mass Transit Account) for the Secretary of Transportation to incur obligations to carry out section 31102 of this title, not more than—

''(1) $80,000,000 for the fiscal year ending September 30, 1998;

''(2) $100,000,000 for the fiscal year ending September 30, 1999;

''(3) $97,000,000 for the fiscal year ending September 30, 2000;

''(4) $94,000,000 for the fiscal year ending September 30, 2001;

''(5) $90,500,000 for the fiscal year ending September 30, 2002; and

''(6) $90,500,000 for the fiscal year ending September 30, 2003.''.

(b) AVAILABILITY AND REALLOCATION.—Section 31104(b)(2) is amended to read as follows:

''(2) Amounts made available under section 4002(e)(1) and (2) of the Intermodal Surface Transportation Efficiency Act of 1991 before October 1, 1996, that are not obligated on October 1, 1997, are available for obligation under paragraph (1).''.

(c) ALLOCATION CRITERIA.—Section 31104(f) is amended to read as follows:

''(f) ALLOCATION CRITERIA AND ELIGIBILITY.—

''(1) On October 1 of each fiscal year or as soon after that date as practicable, the Secretary, after making the deduction described in subsection (e) of this section, shall allocate, under criteria the Secretary prescribes through regulation, the amounts available for that fiscal year among the States with plans approved under section 31102 of this title.

''(2) The Secretary may designate—

''(A) not less than 5 percent of such amounts for activities and projects of national priority for the improvement of commercial motor vehicle safety; and

''(B) not less than 5 percent of such amounts to reimburse States for border commercial motor vehicle safety programs and enforcement activities and projects.

The amounts referred to in subparagraph (B) shall be allocated by the Secretary to State agencies and local governments that use trained and qualified officers and employees in coordination with State motor vehicle safety agencies.''.

(d) OTHER AMENDMENTS.—

(1) Section 31104 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).

(2) Section 31104 is amended by striking subsection (i) and redesignating subsection (j) as subsection (h).

SEC. 3405. INFORMATION SYSTEMS AND STRATEGIC SAFETY INITIATIVES.

Section 31106 is amended to read as follows:

''§ 31106. Information systems and strategic safety initiatives

''(a) INFORMATION SYSTEMS.—

''(1) IN GENERAL.—The Secretary is authorized to establish motor carrier information systems and data analysis programs to support motor carrier regulatory and enforcement activities required under this title. In cooperation with the States, the information systems shall be coordinated into a network providing accurate identification of motor carriers and drivers, registration and licensing tracking, and motor carrier and driver safety performance. The Secretary shall develop and maintain data analysis capacity and programs to provide the means to develop strategies to address safety problems and to use data analysis to measure the effectiveness of these strategies and related programs; to determine the cost effectiveness of Federal and State safety compliance, enforcement programs, and other countermeasures; to evaluate the safety fitness of motor carriers and drivers; to identify and collect necessary data; and to adapt, improve, and incorporate other information and information systems as deemed appropriate by the Secretary.

''(2) PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT.—

''(A) The Secretary shall include, as part of the motor carrier safety information network system of the Department of Transportation, an information system, to be called the Performance and Registration Information Systems Management, to serve as a clearinghouse and repository of information related to State registration and licensing of commercial motor vehicles and the safety system of the commercial motor vehicle registrants or the motor carriers operating the vehicles. The Secretary may include in the system information on the safety fitness of each of the motor carriers and registrants and other information the Secretary considers appropriate, including information on vehicle, driver, and motor carrier safety performance.

''(B) The Secretary shall prescribe technical and operational standards to ensure—

''(i) uniform, timely and accurate information collection and reporting by the States necessary to carry out this system;

''(ii) uniform Federal and State procedures and policies necessary to operate the Commercial Vehicle Information System; and

''(iii) the availability and reliability of the information to the States and the Secretary from the information system.

''(C) The system shall link the Federal motor carrier safety systems with State driver and commercial vehicle registration and licensing systems, and shall be designed—

''(i) to enable a State, when issuing license plates or throughout the registration period for a commercial motor vehicle, to determine, through the use of the information system, the safety fitness of the registrant or motor carrier;

''(ii) to allow a State to decide, in cooperation with the Secretary, the types of sanctions that may be imposed on the registrant or motor carrier, or the types of conditions or limitations that may be imposed on the operations of the registrant or motor carrier that will ensure the safety fitness of the registrant or motor carrier;

''(iii) to monitor the safety fitness of the registrant or motor carrier during the registration period; and

''(iv) to require the State, as a condition of participation in the system, to implement uniform policies, procedures, and standards, and to possess or seek authority to impose commercial motor vehicle registration sanctions on the basis of a Federal safety fitness determination.

''(D) Of the amounts available for expenditure under this section, up to 50 percent in each of fiscal years 1998, 1999, 2000, 2001, 2002, and 2003 may be made available to carry out this paragraph. The Secretary may authorize the operation of the information system by contract, through an agreement with 1 or more States, or by designating, after consultation with the States, a third party that represents the interests of the States. Of the amounts made available to carry out this paragraph, the Secretary is encouraged to direct no less than 80 percent to States that have not previously received financial assistance to develop or implement the Performance and Registration Information Systems Management system.

''(b) COMMERCIAL MOTOR VEHICLE DRIVER SAFETY PROGRAM.—The Secretary is authorized to establish a program focusing on improving commercial motor vehicle driver safety. The objectives of the program shall include—

''(1) enhancing the exchange of driver licensing information among employers, the States, the Federal Government, and foreign countries;

''(2) providing information to the judicial system on the commercial motor vehicle driver licensing program; and

''(3) evaluating any aspect of driver performance and safety that the Secretary deems appropriate.

''(c) COOPERATIVE AGREEMENTS, GRANTS, AND CONTRACTS.—The Secretary may carry out this section either independently or in cooperation with other Federal departments, agencies, and instrumentalities, or by making grants to and entering into contracts and cooperative agreements with States, localities, associations, institutions, corporations (profit or nonprofit) or other persons.''.

SEC. 3406. IMPROVED FLOW OF DRIVER HISTORY PILOT PROGRAM.

The Secretary of Transportation shall carry out a pilot program in cooperation with 1 or more States to improve upon the timely exchange of pertinent driver performance and safety records data to motor carriers. The program shall—

(1) determine to what extent driver performance records data, including relevant fines, penalties, and failures to appear for a hearing or trial, should be included as part of any information systems under the Department of Transportation's oversight;

(2) assess the feasibility, costs, safety impact, pricing impact, and benefits of record exchanges; and

(3) assess methods for the efficient exchange of driver safety data available from existing State information systems and sources.

SEC. 3407. MOTOR CARRIER AND DRIVER SAFETY RESEARCH.

Of the funds made available to carry out programs established by the amendments made by title II of the Intermodal Surface Transportation Efficiency Act of 1997, no less than $10,000,000 shall be made available for each of fiscal years 1998, 1999, 2000, 2001, 2002, and 2003 for activities designed to advance commercial motor vehicle and driver safety. Any obligation, contract, cooperative agreement, or support granted under this section in excess of $250,000 shall be awarded on a competitive basis. The Secretary shall submit annually a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the research activities carried out under this section, including the amount, purpose, recipient and nature of each contract, cooperative agreement or award and results of such research activities carried out under this section, including benefits to motor carrier safety.''.

SEC. 3408. AUTHORIZATION OF APPROPRIATIONS.

Section 31107 is amended to read as follows:

''§ 31107. Authorization of appropriations for information systems and strategic safety initiatives

''(a) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to incur obligations to carry out section 31106—

''(1) $10,000,000 for fiscal year 1998;

''(2) $12,000,000 for fiscal year 1999;

''(3) $12,000,000 for fiscal year 2000;

''(4) $12,000,000 for fiscal year 2001;

''(5) $10,000,000 for fiscal year 2002; and

''(6) $10,000,000 for fiscal year 2003.

''(b) AVAILABILITY.—The amounts made available under this subsection shall remain available until expended.''.

SEC. 3409. CONFORMING AMENDMENTS.

The chapter analysis for chapter 311 is amended—

(1) by striking the heading for subchapter I and inserting the following:

''SUBCHAPTER I—STATE GRANTS AND OTHER COMMERCIAL MOTOR VEHICLE PROGRAMS'';

and

(2) by striking the items relating to sections 31106 and 31107 and inserting the following:

''31106. Information systems and strategic safety initiatives.

''31107. Authorization of appropriations for information systems and strategic safety initiatives.''.

SEC. 3410. AUTOMOBILE TRANSPORTER DEFINED.

Section 31111(a) is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2), as redesignated, the following:

''(1) 'automobile transporter' means any vehicle combination designed and used specifically for the transport of assembled highway vehicles, including truck camper units.''.

SEC. 3411. REPEAL OF REVIEW PANEL; REVIEW PROCEDURE.

(a) REPEAL.—Subchapter III of chapter 311 is amended—

(1) by striking sections 31134 and 31140; and

(2) by striking the items relating to sections 31134 and 31140 in the chapter analysis for that chapter.

(b) REVIEW PROCEDURE.—

(1) IN GENERAL.—Section 31141 is amended—

(A) by striking subsection (b) and redesignating subsections (c), (d), (e), (f), (g), and (h) as subsections (b), (c), (d), (e), (f), and (g), respectively;

(B) by striking so much of subsection (b), as redesignated, as precedes paragraph (2) and inserting the following:

''(b) REVIEW AND DECISIONS BY THE SECRETARY.—

''(1) The Secretary shall review the laws and regulations on commercial motor vehicle safety in effect in each State, and decide—

''(A) whether the State law or regulation—

''(i) has the same effect as a regulation prescribed by the Secretary under section 31136 of this title;

''(ii) is less stringent than that regulation; or

''(iii) is additional to or more stringent than that regulation; and

''(B) for each State law or regulation which is additional to or more stringent than the regulation prescribed by the Secretary, whether—

''(i) the State law or regulation has no safety benefit;

''(ii) the State law or regulation is incompatible with the regulation prescribed by the Secretary under section 31136 of this title; or

''(iii) enforcement of the State law or regulation would cause an unreasonable burden on interstate commerce.'';

(C) by striking paragraph (5) of subsection (b)(5), as redesignated, and inserting the following:

''(5) In deciding under paragraph (4) of this subsection whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the effect on interstate commerce of implementation of all similar laws and regulations of other States.'';

(D) by striking subsections (d) and (e), as redesignated, and inserting the following:

''(d) WRITTEN NOTICE OF DECISIONS.—The Secretary shall give written notice of the decision under subsection (b) of this section to the State concerned.''; and

(E) by redesignating subsections (f) and (g), as redesignated, as subsections (e) and (f), respectively.

(2) CONFORMING CHANGES.—

(A) The heading of section 31141 of such title is amended to read as follows:

''§ 31141. Preemption of State laws and regulations''.

(B) The chapter analysis of chapter 311 of such title is amended by striking the item relating to section 31141 and inserting the following:

''31141. Preemption of State laws and regulations.''.

(c) INSPECTION OF VEHICLES.—

(1) Section 31142 is amended—

(A) in subsection (a), by striking ''part 393 of title 49, Code of Federal Regulations'' and inserting ''regulations issued pursuant to section 31135 of this title''; and

(B) by striking subsection (c)(1)(C) and inserting the following:

''(C) prevent a State from participating in the activities of a voluntary group of States enforcing a program for inspection of commercial motor vehicles; or''.

(2) Subchapter IV of chapter 311 is amended—

(A) by striking sections 31161 and 31162; and

(B) by striking the items relating to sections 31161 and 31162 in the chapter analysis for that chapter.

(3) Section 31102(b)(1), as amended by section 3402(c)(1), is amended—

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

(B) by striking ''thereunder.'' in subparagraph (R) and inserting ''thereunder; and''; and

(C) by adding at the end thereof the following:

''(S) provides that the State will establish a program (i) to ensure the proper and timely correction of commercial motor vehicle safety violations noted during an inspection carried out with funds authorized under section 31104 of this title; and (ii) to ensure that information is exchanged among the States in a timely manner.''.

(d) SAFETY FITNESS OF OWNERS AND OPERATORS.—Section 31144 is amended to read as follows:

''§ 31144. Safety fitness of owners and operators

''(a) PROCEDURE.—The Secretary of Transportation shall maintain in regulation a procedure for determining the safety fitness of owners and operators of commercial motor vehicles, including persons seeking new or additional operating authority as motor carriers under section 13902 of this title. The procedure shall include—

''(1) specific initial and continuing requirements to be met by the owners, operators, and other persons to demonstrate safety fitness;

''(2) a means of deciding whether the owners, operators, or other persons meet the safety requirements under paragraph (1); and

''(3) specific time deadlines for action by the Secretary in making fitness decisions.

''(b) PROHIBITED TRANSPORTATION.—Except as provided in sections 521(b)(5)(A) and 5113, a motor carrier that fails to meet the safety fitness requirements established under subsection (a) may not operate in interstate commerce beginning on the 61st day after the date of the determination by the Secretary that the motor carrier fails to meet the safety fitness requirements and until the motor carrier meets the safety fitness requirements. The Secretary may, for good cause shown, provide a carrier with up to an additional 60 days to meet the safety fitness requirements.

''(c) RATING REVIEW.—The Secretary shall review the factors that resulted in a motor carrier failing to meet the safety fitness requirements not later than 45 days after the motor carrier requests a review.

''(d) GOVERNMENT USE PROHIBITED.—A department, agency, or instrumentality of the United States Government may not use a motor carrier that does not meet the safety fitness requirements.

''(e) PUBLIC AVAILABILITY; UPDATING OF FITNESS DETERMINATIONS.—The Secretary shall amend the motor carrier safety regulations in subchapter B of chapter III of title 49, Code of Federal Regulations, to establish a system to make readily available to the public, and to update periodically, the final safety fitness determinations of motor carriers made by the Secretary.

''(f) PENALTIES.—The Secretary shall prescribe regulations setting penalties for violations of this section consistent with section 521 of this title.''.

(e) SAFETY FITNESS OF PASSENGER AND HAZARDOUS MATERIAL CARRIERS.—

(1) IN GENERAL.—Section 5113 is amended—

(A) by striking subsection (a) and inserting the following:

''(a) PROHIBITED TRANSPORTATION.—

''(1) A motor carrier that fails to meet the safety fitness requirements established under subsection 31144(a) of this title may not operate a commercial motor vehicle (as defined in section 31132 of this title)—

''(A) to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under this chapter; or

''(B) to transport more than 15 individuals.

''(2) The prohibition in paragraph (1) of this subsection applies beginning on the 46th day after the date on which the Secretary determines that a motor carrier fails to meet the safety fitness requirements and applies until the motor carrier meets the safety fitness requirements.'';

(B) by striking ''RATING'' in the heading of subsection (b) and inserting ''FITNESS'';

(C) by striking ''receiving an unsatisfactory rating'' in subsection (b) and inserting ''failing to meet the safety fitness requirements'';

(D) by striking ''has an unsatisfactory rating from the Secretary'' in subsection (c) and inserting ''failed to meet the safety fitness requirements''; and

(E) by striking ''RATINGS'' in the heading of subsection (d) and inserting ''FITNESS DETERMINATIONS'';

(F) by striking '', in consultation with the Interstate Commerce Commission,'' in subsection (d); and

(G) by striking ''ratings of motor carriers that have unsatisfactory ratings from'' in subsection (d) and inserting ''fitness determinations of motor carriers made by''.

(2) CONFORMING AMENDMENTS.—

(A) The heading of section 5113 of such chapter is amended to read as follows:

''§ 5113. Safety fitness of passenger and hazardous material carriers''.

(B) The chapter analysis for chapter 51 is amended by striking the item relating to section 5113 and inserting the following:

''5113. Safety fitness of passenger and hazardous material carriers.''.

(f) DEFINITIONS.—

(1) Section 31101(1) is amended—

(A) in subparagraph (A)—

(i) by inserting ''or gross vehicle weight, whichever is greater,'' after ''rating''; and

(ii) by striking ''10,000'' and inserting ''10,001'';

(B) in subparagraph (B), by striking ''driver; or'' and inserting ''driver, or a smaller number of passengers including the driver as determined under regulations implementing sections 31132(1)(B) or 31301(4)(B)'';

(C) in subparagraph (C), by inserting ''and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103'' after ''title''.

(2) Section 31132 is amended—

(A) in paragraph (1)(A), by inserting ''or gross vehicle weight, whichever is greater,'' after ''rating''; and

(B) by adding at the end of paragraph (3) the following:

''For purposes of this paragraph, the term 'business affecting interstate commerce' means a business predominantly engaged in employing commercial motor vehicles in interstate commerce and includes all operations of the business in intrastate commerce which use vehicles otherwise defined as commercial motor vehicles under paragraph (1) of this section.''.

(g) EMPLOYEE PROTECTIONS.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation, in conjunction with the Secretary of Labor, shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the effectiveness of existing statutory employee protections provided for under section 31105 of title 49, United States Code. The report shall include recommendations to address any statutory changes as may be necessary to strengthen the enforcement of such employee protection provisions.

(h) INSPECTIONS AND REPORTS.—

(1) GENERAL POWERS OF THE SECRETARY.—Section 31133(a)(1) is amended by inserting ''and make contracts for'' after ''conduct''.

(2) REPORTS AND RECORDS.—Section 504(c) is amended by inserting ''(and, in the case of a motor carrier, a contractor)'' before the second comma.

SEC. 3412. COMMERCIAL MOTOR VEHICLE OPERATORS.

(a) REPEAL OF OBSOLETE GRANT PROGRAMS.—Chapter 313 is amended—

(1) by striking sections 31312 and 31313; and

(2) by striking the items relating to sections 31312 and 31313 in the chapter analysis for that chapter.

(b) COMMERCIAL DRIVER'S LICENSE REQUIREMENT.—

(1) IN GENERAL.—Section 31302 is amended to read as follows:

''§ 31302. Commercial driver's license requirement

''No individual shall operate a commercial motor vehicle without a commercial driver's license issued according to section 31308 of this title.''.

(2) CONFORMING AMENDMENTS.—

(A) The chapter analysis for that chapter is amended by striking the item relating to section 31302 and inserting the following:

''31302. Commercial driver's license requirement.''.

(B) Section 31305(a) is amended by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively, and by inserting after paragraph (1) the following:

''(2) may establish performance-based testing and licensing standards that more accurately measure and reflect an individual's knowledge and skills as an operator;''.

(c) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM.—Section 31309 is amended—

(1) in subsection (a), by striking ''make an agreement under subsection (b) of this section for the operation of, or establish under subsection (c) of this section,'' and inserting ''maintain'';

(2) by striking subsections (b) and (c) and redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively;

(3) by striking ''Not later than December 31, 1990, the'' in paragraph (2) of subsection (b), as redesignated, and inserting ''The''; and

(4) in subsection (c), as redesignated—

(A) by inserting after the heading the following: ''Information about a driver in the information system may be made available under the following circumstances:''; and

(B) by starting a new paragraph with ''(1) On request'' and indenting the paragraph 2 ems from the lefthand margin.

(d) REQUIREMENTS FOR STATE PARTICIPATION.—Section 31311(a) is amended—

(1) by striking ''31310(b)-(e)'' in paragraph (15) and inserting ''31310 (b)-(e), and (g)(1)(A) and (2)'';

(2) by striking paragraph (17); and

(3) by redesignating paragraph (18) as paragraph (17).

(e) WITHHOLDING AMOUNTS FOR STATE NONCOMPLIANCE.—Section 31314 is amended—

(1) in subsection (a), by striking '', (2), (5), and (6)'' and inserting ''(3), and (5)'';

(2) in subsections (a) and (b), by striking ''1992'' each place it appears and inserting ''1995'';

(3) in subsection (c), by striking paragraph (1);

(4) in subsection (c)(2), by striking ''(2)'';

(5) by striking subsection (d); and

(6) by redesignating subsection (e) as subsection (d).

(f) COMMERCIAL MOTOR VEHICLE DEFINED.—Section 31301 is amended—

(1) in paragraph (4)(A), by inserting ''or gross vehicle weight, whichever is greater,'' after ''rating'' each place it appears; and

(2) in paragraph (4)(C)(ii), by inserting ''is'' before ''transporting'' each place it appears and before ''not otherwise''.

(g) SAFETY PERFORMANCE HISTORY OF NEW DRIVERS; LIMITATION ON LIABILITY.—

(1) IN GENERAL.—Chapter 5 is amended by adding at the end the following:

''§ 508. Safety performance history of new drivers; limitation on liability

''(a) LIMITATION ON LIABILITY.—No action or proceeding for defamation, invasion of privacy, or interference with a contract that is based on the furnishing or use of safety performance records in accordance with regulations issued by the Secretary may be brought against—

''(1) a motor carrier requesting the safety performance records of an individual under consideration for employment as a commercial motor vehicle driver as required by and in accordance with regulations issued by the Secretary;

''(2) a person who has complied with such a request; or

''(3) the agents or insurers of a person described in paragraph (1) or (2).

''(b) RESTRICTIONS.—

''(1) Subsection (a) does not apply unless—

''(A) the motor carrier requesting the safety performance records at issue, the person complying with such a request, and their agents have taken all precautions reasonably necessary to ensure the accuracy of the records and have fully complied with the regulations issued by the Secretary in using and furnishing the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records;

''(B) the motor carrier requesting the safety performance records, the person complying with such a request, their agents, and their insurers, have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for their insurers, not directly involved in forwarding the records or deciding whether to hire that individual; and

''(C) the motor carrier requesting the safety performance records has used those records only to assess the safety performance of the individual who is the subject of those records in deciding whether to hire that individual.

''(2) Subsection (a) does not apply to persons who knowingly furnish false information.

''(c) PREEMPTION OF STATE AND LOCAL LAW.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using safety performance records in accordance with regulations issued by the Secretary. Notwithstanding any provision of law, written authorization shall not be required to obtain information on the motor vehicle driving record of an individual under consideration for employment with a motor carrier.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 5 is amended by inserting after the item relating to section 507 the following:

''508. Safety performance history of new drivers; limitation on liability.''.

SEC. 3413. PENALTIES.

(a) NOTIFICATION OF VIOLATIONS AND ENFORCEMENT PROCEDURES.—Section 521(b)(1) is amended—

(1) by inserting: ''with the exception of reporting and recordkeeping violations,'' in the first sentence of subparagraph (A) after ''under any of those provisions,'';

(2) by striking ''fix a reasonable time for abatement of the violation,'' in the third sentence of subparagraph (A);

(3) by striking ''(A)'' in subparagraph (A); and

(4) by striking subparagraph (B).

(b) CIVIL PENALTIES.—Section 521(b)(2) is amended—

(1) by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act that is a violation of regulations issued by the Secretary under subchapter III of chapter 311 (except sections 31137 and 31138) or section 31502 of this title shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each offense. Notwithstanding any other provision of this section (except subparagraph (C)), no civil penalty shall be assessed under this section against an employee for a violation in an amount exceeding $2,500.'';

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(3) by inserting after subparagraph (A) the following:

''(B) RECORDKEEPING AND REPORTING VIOLATIONS.—

''(i) A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except 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. 3414. 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 items relating to sections 31702, 31703, and 31708 in the chapter analysis for that chapter.

SEC. 3415. 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 areas 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 completed not later than 36 months after the date of enactment of this Act.

SEC. 3416. APPLICATION OF REGULATIONS.

(a) APPLICATION OF REGULATIONS TO CERTAIN COMMERCIAL MOTOR VEHICLES.—Section 31135 as redesignated, is amended by adding at the end 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 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.''.

(2) The analysis for chapter 313 is amended by adding at the end the following:

''31318. Application of regulations to certain operators.''.

(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. 3417. 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. 3418. FEDERAL MOTOR CARRIER SAFETY INVESTIGATIONS.

The Department of Transportation shall maintain the level of Federal motor carrier safety investigators for international 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. 3419. 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.—Not later than 120 days after the date of enactment this Act, the Secretary of Transportation shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives 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 that section; and

(3) a description of the process utilized to respond to such applications and to certify the safety fitness of those carriers.

SEC. 3420. 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 safety review procedures and findings, and may assist the Secretary in timely completion of ongoing rulemakings by utilizing negotiated rulemaking procedures.

SEC. 3421. WAIVERS; EXEMPTIONS; PILOT PROGRAMS.

(a) WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS FOR CHAPTERS 311 AND 315.—Section 31136(e) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively; and

(2) by striking the subsection heading 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 subchapter or chapter 315; 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 subchapter or chapter 315 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 be obtained in the absence of the waiver—

''(A) for a period not in excess of 3 months;

''(B) limited in scope and circumstances;

''(C) for nonemergency 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 subchapter or chapter 315 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 be obtained 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 be obtained 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 chapter or chapter 315.

''(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 subchapter or chapter 315.

''(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 subchapter or chapter 315; 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 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 chapter; and

''(B) procedures for the conduct of pilot projects or demonstration programs to support the appropriateness of regulations, enforcement policies, 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 chapter 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 be obtained in the absence of the waiver—

''(A) for a period not in excess of 3 months;

''(B) limited in scope and circumstances;

''(C) for nonemergency 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 chapter 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 be obtained 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 be obtained 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 chapter.

''(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 chapter.

''(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 chapter; 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. 3422. COMMERCIAL MOTOR VEHICLE SAFETY STUDIES.

(a) IN GENERAL.—The Secretary shall conduct a study of the impact on 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 Congress a report on the results of the study, together with any related legislative or administrative recommendations. Until the Secretary transmits the report to 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. 3423. 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.

SEC. 3424. EXEMPTION FROM CERTAIN REGULATIONS FOR UTILITY SERVICE COMMERCIAL MOTOR VEHICLE DRIVERS.

(a) IN GENERAL.—Section 31502 is amended by adding at the end the following new subsection:

''(e) EXCEPTION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, regulations promulgated under this section or section 31136 regarding—

''(A) maximum driving and on-duty times applicable to operators of commercial motor vehicles;

''(B) physical testing, reporting, or recordkeeping; and

''(C) the installation of automatic recording devices associated with establishing the maximum driving and on-duty times referred to in subparagraph (A),

shall not apply to any driver of a utility service vehicle.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) DRIVER OF A UTILITY SERVICE VEHICLE.—The term 'driver of a utility service vehicle' means any driver who is considered to be a driver of a utility service vehicle for purposes of section 345(a)(4) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note).

''(B) UTILITY SERVICE VEHICLE.—The term 'utility service vehicle' has the meaning given that term in section 345(e)(6) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note).''.

(b) CONTINUED APPLICATION OF SAFETY AND MAINTENANCE REQUIREMENTS.—

(1) IN GENERAL.—The amendment made by subsection (a) may not be construed—

(A) to exempt any utility service vehicle from compliance with any applicable provision of law relating to vehicle mechanical safety, maintenance requirements, or inspections; or

(B) to exempt any driver of a utility service vehicle from any applicable provision of law (including any regulation) established for the issuance, maintenance, or periodic renewal of a commercial driver's license for that driver.

(2) DEFINITIONS.—For purposes of this subsection—

(A) COMMERCIAL DRIVER'S LICENSE.—The term ''commercial driver's license'' has the

meaning given that term in section 31301(3) of title 49, United States Code.

(B) DRIVER OF A UTILITY SERVICE VEHICLE.—The term ''driver of a utility service vehicle'' has the meaning given that term in section 31502(e)(2)(A) of title 49, United States Code, as added by subsection (a).

(C) REGULATION.—The term ''regulation'' has the meaning given that term in section 31132(6) of title 49, United States Code.

(D) UTILITY SERVICE VEHICLE.—The term ''utility service vehicle'' has the meaning given that term in section 345(e)(6) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note).

SEC. 3425. WAIVERS FOR CERTAIN FARM VEHICLES.

(a) DEFINITIONS.—In this section:

(1) CUSTOM HARVESTING FARM MACHINERY.—The term ''custom harvesting farm machinery'' includes vehicles used for custom harvesting that—

(A) are classified under subpart F of part 383 of title 49, Code of Federal Regulations, as being included in Group A, B, or C (as those terms are used in section 383.91 of that part); and

(B) are used on a seasonal basis to provide transportation of—

(i) agricultural commodities from field to storage or processing; and

(ii) harvesting machinery and equipment from farm to farm.

(2) COMMERCIAL DRIVER'S LICENSE.—The term ''commercial driver's license'' has the meaning given that term in section 31301(3) of title 49, United States Code.

(b) WAIVERS.—In addition to the authority granted to States to waive the application of chapter 313 of title 49, United States Code, with respect to farm vehicles described in 53 Fed. Reg. 37313 through 37316 and farm-related service industries described in 57 Fed. Reg. 13650 through 13654, each State that issues commercial driver's licenses in accordance with chapter 313 of title 49, United States Code, may waive the application of any requirement for obtaining a commercial driver's license for operators of custom harvesting farm machinery or employees of farm-related service industries (or both) that would otherwise apply.

SEC. 3426. FARM SERVICE VEHICLES.

(a) IN GENERAL.—Section 5117(d)(2) is amended—

(1) in the matter preceding subparagraph (A), by striking ''do not prohibit'';

(2) in subparagraph (A)—

(A) by inserting ''do not prohibit'' before ''or regulate''; and

(B) by striking ''or'' at the end;

(3) in subparagraph (B)—

(A) by inserting ''do not prohibit'' before ''transportation''; and

(B) by striking the period at the end and inserting ''; or''; and

(4) by adding at the end the following:

''(C) do not prohibit a State from providing an exception from requirements relating to placarding, shipping papers, and emergency telephone numbers for the private motor carriage in intrastate transportation of an agricultural production material from—

''(i) a source of supply to a farm;

''(ii) a farm to another farm;

''(iii) a field to another field on a farm; or

''(iv) a farm back to the source of supply.

In granting any exception under subparagraph (C), a State shall be required to certify to the Secretary that the exception is in the public interest, there is a need for the exception, and the State will monitor the exception and take such measures as are necessary to ensure that safety is not compromised.''.

(b) AGRICULTURAL PRODUCTION MATERIAL DEFINED.—Section 5117 is amended by adding at the end the following:

''(f) AGRICULTURAL PRODUCTION MATERIAL DEFINED.—In this section, the term 'agricultural production material' means—

''(1) ammonium nitrate fertilizer in a quantity that does not exceed 16,094 pounds;

''(2) a pesticide in a quantity that does not exceed 502 gallons for liquids and 5,070 pounds for solids; and

''(3) a solution of water and nitrogen fertilizer in a quantity that does not exceed 3,500 gallons.''.

Subtitle E—Rail and Mass Transportation Anti-Terrorism; Safety

SEC. 3501. PURPOSE.

The purpose of this subtitle 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. 3502. 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 that 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 20 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; except that whoever is convicted of any crime prohibited by this subsection shall be—

''(A) imprisoned for not less than 30 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 1 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.

''(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 shall also be subject to imprisonment for not more than 20 years if the offense has resulted in the death of any person.

''(d) DEFINITIONS.—In this section—

''(1) 'dangerous device' has the meaning given that term in section 921(a)(4) of this title;

''(2) 'dangerous weapon'' has the meaning given that term in section 930 of this title;

''(3) 'destructive substance'' has the meaning given 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' has the meaning given that term in section 921 of this title;

''(5) 'hazardous material' has the meaning given that term in section 5102(2) of title 49, United States Code;

''(6) 'high-level radioactive waste' has the meaning given that term in section 10101(12) of title 42, United States Code;

''(7) 'railroad' has the meaning given that term in section 20102(1) of title 49, United States Code;

''(8) 'railroad carrier' has the meaning given that term in section 20102(2) of title 49, United States Code;

''(9) 'serious bodily injury' has the meaning given that term in section 1365 of this title;

''(10) 'spent nuclear fuel' has the meaning given that term in section 10101(23) of title 42, United States Code; and

''(11) 'State' has the meaning given 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 as follows:

''1992. Terrorist attacks against railroads.''.

SEC. 3503. 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 a 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 that driver or person is 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 a 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 20 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 1 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 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 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 20 years if the offense has resulted in the death of any person.

''(d) DEFINITIONS.—In this section—

''(1) 'dangerous device' has the meaning given that term in section 921(a)(4) of this title;

''(2) 'dangerous weapon' has the meaning given that term in section 930 of this title;

''(3) 'destructive substance' has the meaning given 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' has the meaning given that term in section 921 of this title;

''(5) 'mass transportation' has the meaning given 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 that term in section 1365 of this title; and

''(7) 'State' has the meaning given 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. 3504. 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. 3505. 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 covenants under section 5334 of this title, to address any safety issues identified in the project supported by the loan or grant.''.

SEC. 3506. RAILROAD ACCIDENT AND INCIDENT REPORTING.

Section 20901(a) is amended to read as follows:

''(a) GENERAL REQUIREMENTS.—On a periodic basis, not more frequently 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. 3507. 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''.

Subtitle F—Sportfishing and Boating Safety

SEC. 3601. AMENDMENT OF 1950 ACT.

Whenever 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. 3602. 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 heading;

(3) by striking ''For the purpose 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 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 sportfishing, 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), respectively;

(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 8(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) in subsection (d), as redesignated, by inserting '', for an outreach and communications program'' after ''Act'';

(4) in subsection (d), as redesignated, by striking ''subsections (a) and (b),'' and inserting ''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 8(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 purposes 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) in subsection (e), as redesignated, by striking ''subsections (a), (b), and (c),'' 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 1/2 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 4 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 for the State outreach and communications program proposed for implementation.''.

SEC. 3603. 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 3604(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 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 3604(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) TRANSFER OF CERTAIN FUNDS.—Amounts available under subparagraphs (A) and (B) of paragraphs (1) and (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. 3604. 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 3602, 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, day-docks, 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

(3) ''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, 1998.

SEC. 3605. BOAT SAFETY FUNDS.

(a) AVAILABILITY OF ALLOCATIONS.—Section 13104(a) of title 46, United States Code, is amended—

(1) in paragraph (1), by striking ''3 years'' and inserting ''2 years''; and

(2) in paragraph (2), by striking ''3-year'' 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 section. 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 heading 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.''.

Subtitle G—Miscellaneous

SEC. 3701. LIGHT DENSITY RAIL LINE PILOT PROJECTS.

(a) IN GENERAL.—Part B of subtitle V is amended by adding at the end the following new chapter:

''CHAPTER 223—LIGHT DENSITY RAIL LINE PILOT PROJECTS

''Sec.
''22301. Light density rail line pilot projects.

''§ 23091. Light density rail line pilot projects

''(a) GRANTS.—The Secretary of Transportation may make grants to States that have State rail plans described in section 22102 (1) and (2) to fund pilot projects that demonstrate the relationship of light density railroad services to the statutory responsibilities of the Secretary, including those under title 23.

''(b) LIMITATIONS.—Grants under this section may be made only for pilot projects for making capital improvements to, and rehabilitating, publicly and privately owned rail line structures, and may not be used for providing operating assistance.

''(c) PRIVATE OWNER CONTRIBUTIONS.—Grants made under this section for projects on privately owned rail line structures shall include contributions by the owner of the rail line structures, based on the benefit to those structures, as determined by the Secretary.

''(d) STUDY.—The Secretary shall conduct a study of the pilot projects carried out with grant assistance under this section to determine the public interest benefits associated with the light density railroad networks in the States and their contribution to a multimodal transportation system. Not later than March 31, 2003, the Secretary shall report to Congress any recommendations the Secretary considers appropriate regarding the eligibility of light density rail networks for Federal infrastructure financing.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $10,000,000 for each of the fiscal years 1998, 1999, 2000, 2001, 2002, and 2003. Such funds shall remain available until expended.''.

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle V is amended by inserting after the item relating to chapter 221 the following new item:

"223. Light Density Rail Line Pilot Projects ..... 22301.".

KEMPTHORNE AMENDMENT NO. 1681

Mr. KEMPTHORNE proposed an amendment to amendment No. 1676 proposed by Mr. CHAFEE to the bill, S. 1173, supra; as follows:

On page 40, after line 10, insert the following:

SEC. 3106. IMPROVING AIR BAG SAFETY.

(a) SUSPENSION OF UNBELTED BARRIER TESTING.—The provision in Federal Motor Vehicle Safety Standard No. 208, Occupant crash protection, 49 CFR 571.208, that requires air bag-equipped vehicles to be crashed into a barrier using unbelted 50th percentile adult male dummies is suspended until either the rule issued under subsection (b) goes into effect or, prior to the effective date of the rule, the Secretary of Transportation, after reporting to the Commerce Committee of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate, determines by rule that restoring the test is necessary to accomplish the purposes of subsection (b).

(b) Rulemaking to Improve Air Bags.—

(1) Notice of proposed rulemaking.—Not later than June 1, 1998, the Secretary of Transportation shall issue a notice of proposed rulemaking to improve the occupant protection for all occupants provided by Federal Motor Vehicle Safety Standard No. 208, while minimizing the risk to infants, children, and other occupants from injuries and deaths caused by air bags, by means that include advanced air bags.

(2) 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 paragraph (1). If the Secretary determines that the final rule cannot be completed by that date to meet the purposes of paragraph (1), and advises the Congress of the reasons for this determination, the Secretary may extend the date for issuing the final rule by not more than one year. The Congress may, by joint resolution, grant a further extension of the date for issuing a final rule.

(3) Methods to ensure protection.—Notwithstanding subsection (a) of this section, the rule required by paragraph (2) may include such tests, including tests with dummies of different sizes, as the Secretary determines to be reasonable, and practicable, and appropriate to meet the purposes of paragraph (1).

(4) EFFECTIVE DATE.—The final rule issued under this subsection shall become effective in phases as rapidly as practicable, beginning not earlier than September 1, 2001, and not later than September 1, 2002, and shall become effective not later than September 1, 2005, for all motor vehicles in which air bags are required to be installed. If the Secretary determines that the September 1, 2005, effective date is not practicable to meet the purposes of paragraph (1), the Secretary may extend the effective date for not more than one year. The Congress may, by joint resolution, grant a further extension of the effective date.

(c) REPORT ON AIR BAG IMPROVEMENTS.—Not later than 6 months after the enactment of this section, the Secretary of Transportation shall report to Congress on the development of technology to improve the protection given by air bags and reduce the risks from air bags. To the extent possible, the report shall describe the performance characteristics of advanced air bag devices, their estimated cost, their estimated benefits, and the time within which they could be installed in production vehicles.

On page 167, after the matter appearing after line 18, insert the following:

Strike section 1407 of the bill.

In the table of sections for the bill, strike the item relating to section 1407.

Amendment the table of sections for the bill by inserting the following item at the appropriate place:

Sec. 3406. Improving air bag safety.

LAUTENBERG (AND OTHERS) AMENDMENT NO. 1682

Mr. LAUTENBERG (for himself, Mr. DEWINE, Mr. LIEBERMAN, Mr. FAIRCLOTH, Mrs. BOXER, Mr. HELMS, Mr. GLENN, Mr. DURBIN, Mrs. FEINSTEIN, Mr. BINGAMAN, Mr. MOYNIHAN, Mr. HATCH, Mr. WELLSTONE, Mr. AKAKA, Mr. DODD, Mr. KERRY, Mr. INOUYE, Ms. MOSELEY-BRAUN, Mr. BUMPERS, Mr. REED, Mr. SMITH of Oregon, Mr. ROCKEFELLER, Mr. THURMOND, and Mr. CHAFEE) proposed an amendment to amendment No. 1676 proposed by Mr. CHAFEE to the bill, S. 1173, supra; as follows:

At the end of subtitle D of title I, add the following:

SEC. 14___. NATIONAL STANDARD TO PROHIBIT OPERATION OF MOTOR VEHICLES BY INTOXICATED INDIVIDUALS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 153 the following:

"§ 154. National standard to prohibit operation of motor vehicles by intoxicated individuals

"(a) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

"(1) FISCAL YEAR 2002.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1)(A), (1)(C), and (3) of section 104(b) on October 1, 2001, if the State does not meet the requirements of paragraph (3) on that date.

"(2) SUBSEQUENT FISCAL YEARS.—The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1)(A), (1)(C), and (3) of section 104(b) on October 1, 2002, and on October 1 of each fiscal year thereafter, if the State does not meet the requirements of paragraph (3) on that date.

"(3) REQUIREMENTS.—A State meets the requirements of this paragraph if the State has enacted and is enforcing a law providing that an individual who has an alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the State is guilty of the offense of driving while intoxicated (or an equivalent offense that carries the greatest penalty under the law of the State for operating a motor vehicle after having consumed alcohol).

"(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

"(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

"(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 2003.—Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 2003, shall remain available until the end of the third fiscal year following the fiscal year for which the funds are authorized to be apportioned.

"(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 2003.—No funds withheld under this section from apportionment to any State after September 30, 2003, shall be available for apportionment to the State.

"(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1)(A), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements, apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

"(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—

"(A) IN GENERAL.—Any funds apportioned under paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned.

"(B) TREATMENT OF CERTAIN FUNDS.—Sums not obligated at the end of the period referred to in subparagraph (A) shall—

"(i) lapse; or

"(ii) in the case of funds apportioned under section 104(b)(1)(A), lapse and be made available by the Secretary for projects in accordance with section 118.

"(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1)(A), the State does not meet the requirements of subsection (a)(3), the funds shall—

"(A) lapse; or

"(B) in the case of funds withheld from apportionment under section 104(b)(1)(A), lapse and be made available by the Secretary for projects in accordance with section 118.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 153 the following:

"154. National standard to prohibit operation of motor vehicles by intoxicated individuals.".

INHOFE (AND BREAUX) AMENDMENT NO. 1683

(Ordered to lie on the table.)

Mr. INHOFE (for himself and Mr. BREAUX) submitted an amendment intended to be proposed by them to the amendment No. 1676 proposed by Mr. CHAFEE to the bill, S. 1173, supra; as follows:

At the end of the bill, add the following:

TITLE —OZONE AND PARTICULATE MATTER STANDARDS

FINDINGS AND PURPOSES

SECTION 1. (a) The Congress finds that—

(1) There is a lack of air quality monitoring data for fine particle levels, measured as $PM_{2.5}$, in the United States and the States should receive full funding for the monitoring efforts;

(2) Such data would provide a basis for designating areas as attainment or nonattainment for any $PM_{2.5}$ national ambient air quality standards pursuant to the standards promulgated in July 1997;

(3) The President of the United States directed the Administrator in a memorandum dated July 16, 1997, to complete the next periodic review of the particulate matter national ambient air quality standards by July 2002 in order to determine "whether to revise or maintain the standards;"

(4) The Administrator has stated that three years of air quality monitoring data for fine particle levels, measured as $PM_{2.5}$ and performed in accordance with any applicable federal reference methods, is appropriate for designating areas as attainment or nonattainment pursuant to the July 1997 promulgated standards; and

(5) The Administrator has acknowledged that in drawing boundaries for attainment and nonattainment areas for the July 1997 ozone national air quality standards, Governors would benefit from considering implementation guidance from EPA on drawing area boundaries;

(b) The purposes of this title are—

(1) To ensure that three years of air quality monitoring data regarding fine particle levels are gathered for use in the determination of area attainment or nonattainment designations respecting any $PM_{2.5}$ national ambient air quality standards;

(2) To ensure that the Governors have adequate time to consider implementation guidance from EPA on drawing area boundaries prior to submitting area designations respecting the July 1997 ozone national ambient air quality standards;

(3) To ensure that implementation of the July 1997 revisions of the ambient air quality standards are consistent with the purposes of the President's Implementation Memorandum dated July 16, 1997.

PARTICULATE MATTER MONITORING PROGRAM

SEC. 2. (a) Through grants under section 103 of the Clean Air Act the Administrator of the Environmental Protection Agency shall use appropriated funds no later than fiscal 2000 to fund one hundred percent of the cost of the establishment, purchase, operation and maintenance of a $PM_{2.5}$ monitoring network necessary to implement the national ambient air quality standards for $PM_{2.5}$ under section 109 of the Clean Air Act. This implementation shall not result in a diversion or reprogramming of funds from other Federal, State or local Clean Air Act activities. Any funds previously diverted or reprogrammed from section 105 Clean Air Act grants for $PM_{2.5}$ monitors must be restored to State or local air programs in fiscal year 1999.

(b) EPA and the States shall ensure that the national network (designated in section 2(a)) which consists of the $PM_{2.5}$ monitors necessary to implement the national ambient air quality standards is established by December 31, 1999.

(c) The Governors shall be required to submit designations for each area following promulgation of the July 1997 $PM_{2.5}$ national ambient air quality standard within one year after receipt of three years of air quality monitoring data performed in accordance with any applicable federal reference methods for the relavent areas. Only data from the monitoring network designated in section 2(a) and other federal reference method monitors shall be considered for such designations. In reviewing the State Implemental Plans the Administrator shall take into account all relevant monitoring data regarding transport of $PM_{2.5}$.

(d) The Administrator shall promulgate designations of nonattainment areas no later than one year after the initial designations required under paragraph 2(c) are required to be submitted.

(e) The Administrator shall conduct a field study of the ability of the $PM_{2.5}$ Federal Reference Method to differentiate those particles that are larger than 2.5 micrograms in diameter. This study shall be completed and provided to Congress no later than two years from the date of enactment of this legislation.

OZONE DESIGNATION REQUIREMENTS

SEC. 3. (a) The Governors shall be required to submit designations of nonattainment areas within two years following the July 1997 promulgation of the revised ozone national ambient air quality standards.

(b) The Administrator shall promulgate final designations no later than one year after the designation required under paragraph 3(a) are required to be submitted.

ADDITIONAL PROVISIONS

SEC. 4. Nothing in sections 1–3 above shall be construed by the Administrator of Environmental Protection Agency or any court, State, or person to affect any pending litigation.

NOTICE OF HEARING

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will meet on Tuesday, March 10, 1998, at 9 a.m. in SR–328A. The purpose of this meeting will be to examine the current federal crop insurance program and consider improvements to the system.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Tuesday, March 3, 1998, in open session, to receive testimony on the Department of Defense Science and technology programs in review of the Defense authorization request for fiscal year 1999 and the Future Years Defense Program.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, March 3, 1998, to conduct a hearing on S. 1405, the ''Financial Regulatory Relief and Economic Efficiency Act (FRREE).''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, March 3, 1998, at 9:30 a.m. on tobacco legislation.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, March 3, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to consider the President's proposed budget for FY1999 for the U.S. Forest Service.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LOTT. Mr. President. I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a business meeting to consider amendments to S. 1173, the Intermodal Surface Transportation Efficiency Act of 1997, Tuesday, March 3, 1998, 9:30 a.m., Hearing Room (SD–406).

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 3, 1998 at 2:15 pm to hold a Business Meeting.

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

COMMITTEE ON THE JUDICIARY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the senate on Tuesday, March 3, 1998 at 10:00 a.m. in room 216 of the senate hart office building to hold a hearing on ''Market Power and Structural Change in the Software Industry.''

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

SUBCOMMITTEE ON PUBLIC HEALTH AND SAFETY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources Subcommittee on Public Health and Safety, be authorized to meet for a hearing on Global Health: United States Response to Infectious Diseases during the session of the Senate on Tuesday, March 3, 1998, at 9:30 a.m.

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

SUBCOMMITTEE ON SEAPOWER

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet at 2:30 p.m. on Tuesday, March 3, 1998 in closed/open session, to receive testimony on the seapower threat-based force requirement in review of the Defense authorization request for fiscal year 1999 and the future years defense program.

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

ADDITIONAL STATEMENTS

NATO ENLARGEMENT: A HISTORIC BLUNDER

• Mr. MOYNIHAN. Mr. President, in this morning's New York Times, Thomas L. Friedman has written a powerful critique of what he calls ''fumbling on NATO expansion.'' In it he refers to a letter in the spring issue of The National Interest from George F. Kennan who warns that NATO expansion is an historic blunder. Ambassador Kennan's letter came in response to an article by Owen Harries, editor of The National Interest, on ''The Dangers of Expansive Realism'' in the current, winter issue of The National Interest.

It is surely a rare moment when three respected commentators on foreign affairs, and in Ambassador Kennan's case, a participant of historic standing, each of quite distinctive points of view, come together in such strong agreement. In an article in The New York Times of February 5th, 1997, Ambassador Kennan stated that ''expanding NATO would be the most fateful error of American policy in the entire post-cold-war era.''

I ask that the column by Thomas L. Friedman, the letter by George F. Kennan, the article by Owen Harries, and the article by Ambassador Kennan in The New York Times be printed in the RECORD.

[From the New York Times, March 3, 1998]

OHIO STATE II

(By Thomas L. Friedman)

Last week the Senate Foreign Relations Committee put on a shameful performance. Senators Jesse Helms, Joe Biden & Co. rolled over like puppies having their bellies rubbed when Clinton officials explained their plans for NATO expansion by dodging all the hard questions. It's too bad CNN couldn't entice the Clinton team to go out to Ohio State again and hold a town meeting on NATO expansion. If they had, it would sound like this:

Student: ''I've got a question for Secretary of Defense Cohen. When you were here before, you had a hard time defining what the endgame would be if we bombed Iraq. What's the endgame of NATO expansion? I mean, if we just admit Poland, Hungary and the Czech Republic, all we will be doing is redividing Europe slightly to the east. And if we actually do what you advocate, expand NATO to the Baltic States, up to Russia's border, we will be redividing NATO, since the British, French and Germans are not ready to go that far because they know it would be treated by Russia as a strategic threat.''

Secretary Cohen: ''Son, we've got our endgame on NATO figured out just like we do on Iraq. It's called kick the can down the road and hope it all works out in the end.''

Student: ''National security adviser Berger, you now say NATO expansion will only cost $1.5 billion over 10 years, when just last year the Pentagon said it would be $27 billion over 13 years, and the Congressional Budget Office said it could be $125 billion over 15 years. How come NATO expansion gets cheaper every day it gets closer to a Senate vote? And how does it get cheaper when France says it won't pay a dime and the Czech Republic doesn't own a single advanced fighter jet, so it will need to buy a whole new air force?''

Mr. Berger: ''Our NATO numbers were prepared by the same accountants who said the U.S. budget was balanced. I rest my case.''

Student: ''Secretary Albright, you say we have to bomb Iraq, because Saddam has all these weapons of mass destruction. But the Russians have 7,500 long-range nuclear missiles, loose warheads falling off trucks and a bunch of Dr. Strangelove scientists looking for work. And we have a Start 2 nuclear reduction treaty that the Russians have signed but not implemented because of resistance in the Russian Parliament to NATO expansion. How could you put a higher priority on bringing Hungary into NATO than working with Russia on proliferation?''

Albright: ''Oh, please. You want to blame everything on NATO expansion, like it's El Niño.''

Student: ''I'm sorry, Madame Secretary, but that's not an answer. You keep dodging this question. You can say that the Russians can't stop NATO expansion. And you can say that it's worth risking a new cold war to bring these three countries into NATO. But you can't deny that NATO expansion has contributed to Russia's refusal to ratify the Start 2 treaty, which is an enormous loss to U.S. national security.''

War veteran: ''Secretary Cohen, I thought we fought the cold war to change Russia, not to expand NATO. But now that we've changed Russia and should be consolidating that, you want to expand NATO?''

Secretary Cohen: ''NATO expansion is not directed against Russia. It's meant to secure the new democracies in East Europe.''

Heckler: ''If it's meant to secure democracy in new democracies, isn't the most important new democracy Russia? And why is your P.R. campaign for NATO expansion being funded by U.S. arms sellers, who see NATO expansion as market expansion for their new weapons?''

Student: ''I just got the spring issue of The National Interest magazine. It contains a letter from George Kennan, the architect of America's cold-war containment of the Soviet Union and one of our nation's greatest statesmen. Kennan says NATO expansion is a historic blunder. What do you all know that he doesn't?''

Mr. Berger: ''I have the greatest respect for Mr. Kennan, but our team has its own Russia expert, Strobe Talbott, who speaks Russian, has written books about Russia, and some of his best friends are Russians. He couldn't possible be anti-Russian, and he's for NATO expansion.''

Student: ''Excuse me, but didn't Talbott write the first memo to Secretary of State Christopher opposing NATO expansion, because. . . .''

Bernard Shaw: ''Sorry to interrupt. We've got to close.''

[From the National Interest—Spring 1998]

THE DANGERS OF EXPANSIVE REALISM

I read your article [Owen Harries, ''The Dangers of Expansive Realism'', Winter 1997/98] with strong approval. It was in some respects a surprise because certain of your major arguments were ones I myself had made, or had wanted to make, but had not expected to see them so well expressed by the pen of anyone else. I can perhaps make this clear by commenting specifically on certain of your points.

First, your reference to the implicit understanding that the West would not take advantage of the Russian strategic and political withdrawal from Eastern Europe is not only warranted, but could have been strengthened. It is my understanding that Gorbachev on more than one occasion was given to understand, in informal talks with senior American and other Western personalities, that if the USSR would accept a united Germany remaining in NATO, the jurisdiction of that alliance would not be moved further eastward. We did not, I am sure, intend to trick the Russians; but the actual determinants of our later behavior—lack of coordination of political with military policy, and the amateurism of later White House diplomacy—would scarcely have been more creditable on our part than a real intention to deceive.

Secondly, I could not associate myself more strongly with what you write about the realist case that sees Russia as an inherently and incorrigibly expansionist country, and suggest that this tendency marks the present Russian regime no less than it did the Russian regimes of the past. We have seen this view reflected time and again, occasionally in even more violent forms, in efforts to justify the recent expansion of NATO's boundaries and further possible expansions of that name. So numerous and extensive have the distortions and misunderstandings on which this view is based been that it would be hard even to list them in a letter of this sort. It grossly oversimplifies and misconstrues must of the history of Russian diplomacy of the czarist period. It ignores the whole great complexity of Russia's part in World War II. It allows and encourages one to forget that the Soviet military advances into Western Europe during the last war took place with our enthusiastic approval, and the political ones of the ensuing period at least wit hour initial consent and support. It usually avoids mention of the Communist period, and attributes to ''the Russians'' generally all the excesses of the Soviet domination of Eastern Europe in the Cold War period.

Worst of all, it tends to equate, at least by implication, the Russian-Communist dictatorship of recent memory with the present Russian republic—a republic, the product of an amazingly bloodless revolution, which has, for all its many faults, succeeded in carrying on for several years with an elected government, a largely free press and media, without concentration camps or executions, and with a minimum of police brutality. This curious present Russia, we are asked to believe, is obsessed by the same dreams of conquest and oppression of others as were the worst examples, real or imaginative, of its predecessors.

You, I think, were among the first, if not indeed the first, to bring some of the above to the attention of your readers; and this, in my opinion, was an important and valuable service.

GEORGE F. KENNAN,
Princeton, New Jersey.

[From the National Interest—Winter 1997/98]

THE DANGERS OF EXPANSIVE REALISM

(By Owen Harries)

. . . it is sometimes necessary to repeat what all know. All mapmakers should place the Mississippi in the same location and avoid originality. It may be boring, but one has to know where it is. We cannot have the Mississippi flowing toward the Rockies, just for a change.

—Saul Bellow, *Mr. Sammler's Planet*

In many ways NATO is a boring organization. It is a thing of acronyms, jargon, organizational charts, arcane strategic doctrines, and tried rhetoric. But there is no gainsaying that it has a Mississippi-like centrality and importance in American foreign policy. When, then, proposals are made to change it radically—to give it new (and very different) members, new purposes, new ways of conducting business, new non-totalitarian enemies (or, conversely, to dispense altogether with the concept of enemies as a rationale)—it is sensible to pay close attention and to scrutinize carefully and repeatedly the arguments that bolster those proposals. Even at the risk of making NATO boring in new ways, it is important to get things rights.

Before getting down to particular arguments, the proposed expansion of NATO into Central and Eastern Europe should be placed in the wider context that made it an issue. For nearly half a century the United States and its allies fought the Cold War, not, it was always insisted, against Russia and the Russian people, but against the Soviet regime and the ideology it represented. An implicit Western objective in the Cold War was the conversion of Russia from totalitarianism to a more or less normal state, and, if possible, to democracy.

Between 1989 and 1991, a political miracle occurred. The Soviet regime, steeped in blood and obsessed with total control as it had been throughout most of its history, voluntarily gave up its Warsaw Pact empire,

collapsed the Soviet system upon itself, and then acquiesced in its own demise—all with virtually no violence. This extraordinary sequence of events was by no means inevitable. Had it so chosen, the regime could have resisted the force of change as it had on previous occasions, thus either extending its life, perhaps for decades more, or going down in a welter of blood and destruction. That, indeed, would have been more normal behavior, for as the English scholar Martin Wight once observed, ''Great power status is lost, as it is won, by violence. A Great Power does not die in its bed.'' What occurred in the case of the Soviet Union was very much the exception.

A necessary condition for its being so was an understanding—explicit according to some, but in any case certainly implicit—that the West would not take strategic and political advantage of what the Soviet Union was allowing to happen to its empire and to itself. Whatever it said now, such a bargain was *assumed by* both sides, for it was evident to all involved that in its absence—if, that is, it had become apparent that the West was intent on exploiting any retreat by Moscow—events would not be allowed to proceed along the liberalizing course that they actually took. Further, there seemed to be basis for the United States objecting to such a bargain. For after all, its avowed objective was not the eastward extension of its own power and influence in Europe, but the restoration of the independence of the countries of the region. In effect, the bargain gave the United States everything it wanted (more, in fact, for the breakup of the Soviet Union had never been a Cold War objective), and in return required it only to refrain from doing what it had never expressed any intention of doing.

Now, and very much at the initiative of the United States, the West is in the process of reneging on that implicit bargain by extending NATO into countries recently vacated by Moscow. It is an ominous step, Whatever is said, however ingenious and vigorous the attempts to obscure the facts or change the subject, NATO is a military alliance, the most powerful in the history of the world, and the United States is the dominant force in that alliance. And whatever is claimed about spreading democracy, making Europe ''whole'', promoting stability, peacekeeping, and righting past injustices—all formulations that serve, either consciously or inadvertently, to divert attention from the political and strategic reality of what is now occurring—cannot succeed in obscuring the truth that the eastward extension of NATO will represent an unprecedented projection of American power into a sensitive region hitherto beyond its reach. It will constitute a veritable geopolitical revolution. It is not necessary to accept in its entirety the resonant but overwrought dictum of Sir Halford Mackinder (''Who rules East Europe commands the Heartland; Who rules the Heartland commands the World Island; Who rules the World Island commands the World'') to recognize the profound strategic implications of what the U.S. Senate is being asked to endorse.[1]

Why is the Clinton administration acting in this way? And—a different question—does it serve American interests that it is doing so, and that its expressed intention is to proceed much further along the same path?

Immediately after the end of the Cold War there was no great enthusiasm either in America or Western Europe for enlarging NATO. In the early days of the Clinton administration, Secretary of State Warren Christopher, Secretary of Defense Les Aspin, and Ambassador-at-Large Strobe Talbott were all opposed to it.

How, then, did it come about that by the beginning of 1994 President Clinton was declaring that ''the question is no longer whether NATO will take on new members, but when and how''? It was certainly not by a process of ratiocination, vigorous debate, and the creation of an intellectual consensus concerning interests, purposes, and means. To this day there is no such consensus, and no coherent case for NATO expansion on which all of its principal supporters agree.

HOW ENLARGEMENT HAPPENED

The Clinton administration's conversion from indifference, or even skepticism, to insistence on NATO expansion was the result of a combination of disparate events and pressures:

The strength of the Polish-American vote, as well as that of other Americans of Central and East European origin.

The enormous vested interests—careers, contracts, consultancies, accumulated expertise—represented by the NATO establishment, which now needed a new reason and purpose to justify the organization's continued existence.

The ''moral'' pressure exerted by East European leaders, for whom NATO membership is principally important as a symbol that they are fully European, and as a means of back door entry into the European Union.

Conversely, the growing eagerness of some West European governments to grant these states membership of NATO as an acceptable price for keeping them out of, or at least delaying their entry into, the European Union.

The concern and self-distrust felt by some Germans, and not least by Chancellor Helmut Kohl, at the prospect of their country's being left on the eastern frontier of NATO, adjacent to an area of political weakness and potential instability.

Growing doubts about democracy's prospect of success in Russia, and fear of the reemergence of an assertive nationalism there.

The need of some American conservative intellectuals for a bold foreign policy stroke to ''remoralize'' their own ranks after some dispiriting domestic defeats, the enthusiasm of others for ''a democratic crusade'' in Central and Eastern Europe, and the difficulty of yet others to break a lifetime's habit of regarding Moscow as the enemy.

Formidable as this combination of pressures was, it is doubtful that it would have been capable of converting the Clinton administration on NATO expansion were it not for the addition of one other crucial factor: Bosnia. The war in Bosnia focused American attention on post-Cold War Central Europe, and it did so in a most emotional way. Bosnia also raised in acute form the question of the future of NATO, as the alliance's feeble response to the crisis cast doubt on its continued viability, and it raised the question specifically in the context of instability in Central and Eastern Europe. The domino theory, forgotten for two decades, was quickly resurrected and applied. ''Bosnia'' was increasingly understood not as referring to a discrete event but as a metaphor for the chronic, historically ordained instability of a whole region.

RUSSIA IS RUSSIA IS RUSSIA

Taken together, these pressures were politically formidable, especially for an administration as sensitive to pressure as was Clinton's. But they had very little to do with America's national interests, and the administration's subsequent attempts to make a case for NATO's eastward expansion in terms of those interests have been perfunctory and shallow. A much more serious attempt has been made outside the administration, mainly by commentators of a realist persuasion. The case they have made, however, is badly flawed.

The realist case is based largely on the conviction that Russia is inherently and incorrigibly expansionist, regardless of how and by whom it is governed. Kissinger has warned of ''the fateful rhythm of Russian history.'' Zbigniew Brzezinski emphasizes the centrality in Russia's history of ''the imperial impulse'' and claims that in post-communist Russia that impulse ''remains strong and even appears to be strengthening.'' Thus Brzezinski sees an ''unfortunate continuity'' between the Soviet era and today in defining national interests and formulating foreign policy. Another realist, Peter Rodman, speaks in the same vein, explaining the ''lengthening shadow of Russian strength'' by asserting that ''Russia is a force of nature.''

In arguing in this way, these commentators are being very true to their realist position. But they are also drawing attention to what is one of the most serious intellectual weaknesses of that position—namely, that in its stress on the structure of the international system and on how states are placed within that system, realism attaches little or no importance to what is going on inside particular states: what kind of regimes are in power, what kind of ideologies prevail, what kind of leadership is provided. For these realists, Russia is Russia is Russia, regardless of whether it is under czarist, communist, or nascent democratic rule.

* * * * *

ENDS AND MEANS

Another of the central tenets of realism is that if the end is willed, so should be the means. The two should be kept in balance, preferably, as Walter Lippmann urged, ''with a comfortable surplus of power in reserve.'' In the case of NATO expansion, this tenet is being ignored. The NATO members are moving to assume very large additional commitments at a time when they have all made substantial cuts to their defense budgets, and when more such cuts are virtually certain. (The French Cabinet, for example, announced in August that the military draft, which dates back two centuries, is to be phased out and that defense procurement expenditure is to be cut by 11 percent.) The irresponsibility of such a course of action raises the question of the seriousness of the new commitments being undertaken. After all, such pledges have been made in the past, only to be broken: Munich, 1938, was the last occasion on which Western powers guaranteed the security of what is today the Czech Republic.

It is not only in terms of power that realists should be concerned with the balancing of ends and means. They should also consider the suitability of the instruments involved—particularly the human instruments—for the tasks at hand. Not to do so is likely to result in the sort of unpleasant surprise that some realist supporters of NATO expansion got as a result of the March 1997 Helsinki summit. At that meeting, so many concessions were made to Moscow by the Clinton administration that we now have an almost lunatic state of affairs: in order to make acceptable the expanding of NATO to contain a potentially dangerous Russia, we are coming close to making Russia an honorary member of NATO, with something approximating veto power.

Some of the initially most ardent supporters of expansion are now deeply dismayed by

[1] When I wrote this, I thought that I was drawing attention to something that was implicit but unacknowledged in the policy of NATO expansion. But in his latest book, Zbigniew Brzezinski directly and honestly links American primacy to ''preponderance on the Eurasian continent.'' In the same chapter he quotes Mackinder's dictum. See *The Grand Chessboard* (New York: Basic Books, 1997), chapter 2.

these developments. But surely the likelihood of such an outcome was foreseeable. After all, they knew from the start that the policy they were pushing would be negotiated not by a Talleyrand or a Metternich—or an Acheson or a Kissinger—but by Bill Clinton, the man who feels everyone's pain. Kissinger has been clear-eyed enough to label what happened at Helsinki a fiasco.

This image of a Europe ''made whole'' again after the division of the Cold War is one that the advocates of NATO expansion appeal to frequently. But it is not a convincing appeal. For one thing, coming from some mouths it tends to bring to mind Bismarck's comment: ''I have always found the word Europe on the lips of those politicians who wanted something from other Powers which they dared not demand in their own name.'' For another, it invites the question of when exactly was the last time that Europe was ''whole.'' In the 1930s, when the dictators were on the rampage? In the 1920s, when Germany and Russia were virtual nonactors? In 1910, when Europe was an armed camp and a furious arms race was in progress? In the 1860s, when Prussia was creating an empire with ''blood and iron''? When exactly? And then there is the simple and undeniable fact that at every step of the way—and regardless of how many tranches of new members are taken in—the line dividing Europe will not be eliminated but simply moved to a different place. Only if Russia itself were to be included would Europe be ''whole.'' Anyone who doubts this should consult an atlas.

One final note: During the last few months advocates of expansion have been resorting more and more to an argument of last resort—one of process, not of substance. It is that the United States is now so far committed that it is too late to turn back. That argument is not without some merit, for prestige does count, and undoubtedly prestige would be lost by a reversal at this stage. But that granted, prestige is not everything. When the alternative is to persist in serious error it may be necessary to sacrifice some prestige early, rather than much more later. To proceed resolutely down a wrong road—especially one that has a slippery slope—is not statesmanship. After all, the last time the argument that is too late to turn back prevailed was exactly thirty years ago, as, without clear purpose, we were advancing deeper and deeper into Vietnam.

[From the New York Times, February 5, 1997]

A FATEFUL ERROR—EXPANDING NATO WOULD BE A REBUFF TO RUSSIAN DEMOCRACY

(By George F. Kennan)

In late 1996, the impression was allowed, or caused, to become prevalent that it had been somehow and somewhere decided to expand NATO up to Russia's borders. This despite the fact that no formal decision can be made before the alliance's next summit meeting in June.

The timing of this revelation—coinciding with the Presidential election and the pursuant changes in responsible personalities in Washington—did not make it easy for the outsider to know how or where to insert a modest word of comment. Nor did the assurance given to the public that the decision, however preliminary, was irrevocable encourage outside opinion.

But something of the highest importance is at stake here. And perhaps it is not too late to advance a view that, I believe, is not only mine alone but is shared by a number of others with extensive and in most instances more recent experience in Russian matters. The view, bluntly stated, is that expanding NATO would be the most fateful error of American policy in the entire post-cold-war era.

Such a decision may be expected to inflame the nationalistic, anti-Western and militaristic tendencies in Russian opinion; to have an adverse effect on the development of Russian democracy; to restore the atmosphere of the cold war to East-West relations, and to impel Russian foreign policy in directions decidedly not to our liking. And, last but not least, it might make it much more difficult, if not impossible, to secure the Russian Duma's ratification of the Start II agreement and to achieve further reductions of nuclear weaponry.

It is, of course, unfortunate that Russia should be confronted with such a challenge at a time when its executive power is in a state of high uncertainty and near-paralysis. And it is doubly unfortunate considering the total lack of any necessity for this move. Why, with all the hopeful possibilities engendered by the end of the cold war, should East-West relations become centered on the question of who would be allied with whom and, by implication, against whom in some fanciful, totally unforeseeable and most improbable future military conflict?

I am aware, of course, that NATO is conducting talks with the Russian authorities in hopes of making the idea of expansion tolerable and palatable to Russia. One can, in the existing circumstances, only wish these efforts success. But anyone who gives serious attention to the Russian press cannot fail to note that neither the public nor the Government is waiting for the proposed expansion to occur before reacting to it.

Russians are little impressed with American assurances that it reflects no hostile intentions. They would see their prestige (always uppermost in the Russian mind) and their security interests as adversely affected. They would, of course, have no choice but to accept expansion as a military fait accompli. But they would continue to regard it as a rebuff by the West and would likely look elsewhere for guarantees of a secure and hopeful future for themselves.

It will obviously not be easy to change a decision already made or tacitly accepted by the alliance's 16 member countries. But there are a few intervening months before the decision is to be made final; perhaps this period can be used to alter the proposed expansion in ways that would mitigate the unhappy effects it is already having on Russian opinion and policy.●

PEACE CORPS DAY

● Mr. COVERDELL. Mr. President, I rise today to acknowledge March 3 as Peace Corps Day, celebrating the 37th anniversary this past Sunday of President Kennedy signing the legislation that created the Peace Corps on March 1, 1961. As a former Director of the Peace Corps I want to pay tribute to that organization as an example of Americans at their best.

Since 1961, more than 150,000 Americans from all across the nation have served in the Peace Corps in over 132 countries. Today nearly 6,500 volunteers currently serve in the 84 countries, addressing critical development needs on a person-to-person level, helping communities gain access to clean water; grow more food; prevent the spread of AIDS; teach English, math, and science; help entrepreneurs start new businesses; and work to protect the environment.

Peace Corps volunteers have improved the lives of many people abroad during their terms of service. They have rightly earned great respect and admiration for the American people and for American values. But they have also brought the benefits of their experience home and continued to contribute to their own communities and to our nation as volunteers and in leadership positions. Returned Peace Corps volunteers find their experience, their knowledge of other cultures, and the self-assurance they gain stand them in good stead in their own careers. But they also share the benefits of their time in the Peace Corps with many others. We call this the ''Domestic Dividend.''

To commemorate Peace Corps Day, more than 5,000 current and returned volunteers will go back to school today to speak with students about their overseas experiences, some via satellite or phone, but most in person. This is part of the agency's global education program ''World Wise Schools.'' Today more than 350,000 students in all 50 states will learn about life in communities of the developing world by talking the volunteers who have lived there. For example, Peace Corps Volunteer Amy Medley will get to talk to her pen pals from Walden Middle School in Atlanta, Georgia for the first time. She will be calling from Africa, where she is currently serving as a science teacher in Eritrea.

As we celebrate today, interest in the Peace Corps is growing. In 1997 more than 150,000 individuals contacted the Peace Corps to request information on serving as a volunteer, an increase of more than 40 percent since 1994. In view of this interest and the tremendous success and record of the Peace Corps, President Clinton has called for an expansion of the Peace Corps in his 1999 budget, putting the agency on a path to fielding 10,000 volunteers in the year 2000. This is a request and a goal I strongly support.

Mr. President, for 37 years, the Peace Corps has extended a helping hand to the world and Peace Corps volunteers have demonstrated in countless ways the generosity and dedication to service that is so much a part of the American character. So I will take this opportunity to salute all of our Peace Corps volunteers, past and present, and to thank them for their service. We appreciate all they have done and continue to do and I look forward to seeing the Peace Corps continue its outstanding record of service into the 21st Century. ●

COMMEMORATION OF CHIEF A. MARVIN GIBBONS

● Mr. SARBANES. Mr. President, I had the honor of joining with Mrs. Mary Anne Gibbons, a number of firefighters from the State of Maryland, the National Fallen Firefighters Foundation, the United States Fire Administration, and others in dedicating the National Fallen Firefighters Memorial Chapel in commemoration of Chief A. Marvin Gibbons.

As I mentioned in Emmitsburg, Mrs. Gibbons is doing a terrific job in her position as a member of the National Fallen Firefighters Foundation board—carrying on the good work for which we honored her husband—and we are extremely grateful for her continued contributions in this area.

I also made mention during the ceremony of the many accomplishments of the ''Big Chief,'' as Chief Gibbons was affectionately known by his many friends and associates. I wanted to make his legacy a part of the CONGRESSIONAL RECORD because throughout his life, I think he embodied the qualities which make our firefighters heroes, leaders, and role models.

Ever since I grew up, two blocks from the fire house in Salisbury, I have always held a deep and abiding respect for the men and women of the fire service. This is not simply because of the willingness of fire fighters to put their lives on the line every day, but also because they tend to do their jobs with kindness and an infallible commitment to serving the citizens of their communities. Indeed, there are few persons more deserving of our respect and admiration than those who serve as fire fighters and first responders.

I have long felt that Americans do not pause often enough to consider the critical importance of the work that firefighters do—to appreciate their sacrifice and the contribution which they make to our nation. Throughout his life, Chief Gibbons not only personified the best of what it means to be a firefighter and a public servant, but he also showed a strong commitment to ensuring that firefighters receive the recognition they richly deserve.

This past weekend's dedication ceremony was indeed a fitting tribute to Chief Gibbons' 42 years of lasting contributions to the fire service. I want to again touch on one of the contributions he made on a national level which is of particular interest to me. As most who are involved in the fire service know, it was Marvin Gibbons who helped ensure that the National Fallen Firefighters Memorial was located in Emmitsburg, Maryland on the beautiful campus of the National Fire Academy. And it was his vision which led to the unveiling of this monument and the first annual National Memorial Service held at Emmitsburg in 1982.

I was proud to introduce and push to enact the legislation that made the Emmitsburg site the official National Memorial to all firefighters. And in 1990, I spoke at the dedication marking the official recognition of the National Fallen Firefighters Memorial where I recall quoting an editorial from the Carroll County Times entitled ''Firefighters Memorial: An Important Reminder.'' I want to again just quote briefly from it, because I think this editorial reflects what Chief Gibbons was striving to accomplish in establishing the memorial and an annual ceremony in honor of our nation's fallen firefighters:

> We take many aspects of life for granted. Not thinking about a service until we need it is an easy way to think . . . But how often do we consider that at a moment's notice, our fire fighters will risk their lives for us? Until the tragedy of fire or some other emergency strikes, we hardly consider it at all.

Mr. President, behind each name engraved in Emmitsburg is a story—a story of courage, dedication and service to others—and I should mention that we are working to expand the National Memorial site there to ensure that it continues to serve as a lasting tribute to our firefighters.

The National Fallen Firefighters Foundation is responsible for the National Memorial Service each year so that as a nation we will never forget the sacrifice that these brave men and women make in protecting us every day. With the dedication of the National Fallen Firefighters Memorial Chapel in his memory, we hope to ensure that the legacy of A. Marvin Gibbons and his commitment to the fire service will also never be forgotten.●

COMMENDING PAT SUMMITT ON MAKING THE COVER OF SPORTS ILLUSTRATED

● Mr. THOMPSON. Mr. President, today I wish to take note of a woman of character and accomplishment who has recently been recognized in a unique and public way for her outstanding talent and tireless work. University of Tennessee Lady Vols Basketball Coach Pat Summitt is on the cover of the March 2, 1998 issue of Sports Illustrated, and I can't think of a better choice. On the caption of the cover, it asks what Coach Summitt's place in basketball history might be, and suggests that she is perhaps the greatest college basketball coach of all time. Mr. President, I think that's a pretty accurate assessment.

As I have pointed out with more than a little pride before to the Senate, the Lady Vols have taken home the national championship trophy the last two years in a row, and five years out of the last eleven. Every one of those victories was both hard-fought and well-deserved, and Coach Summitt was always at the helm. In Tennessee, we're all very proud of what she's done, and fans everywhere have come to appreciate just how much of the success of women's basketball is owed to her efforts. She has helped to make women's basketball a major interest of sports fans, and she has helped create a great deal of opportunity for young scholar-athletes.

Coach Summitt has never let ''no'' stand in the way of getting what she wanted. As the Sports Illustrated article tells it, Pat grew up on a farm where she learned to work hard and stick to a job until it was done—and done right. Later, after a potentially career-ending knee injury, she defied the odds and the predictions of her doctors not only to play again but to join the 1976 Women's Olympic Basketball team as the oldest player, and come home with a Silver Medal.

Her rise is impressive. She was made head coach at age 22 at the University of Tennessee while she was finishing a graduate degree. And she rose to the task, doing more than she had to do in all her jobs. Anybody else might have settled for second best under the workload. Not Pat. She wanted to succeed. Pat didn't just show up for practice and blow the whistle while the players ran laps. She built the women's program from nearly the ground up. She drove the team to and from games, she made sure everyone had uniforms and towels, she swept the floor and she looked after her players' injuries. And she finished her degree. Pat did it all, and her dedication has paid off.

Pat has spoiled us in Tennessee. We're more accustomed than most to winning the big games. But as long as Pat's in charge, and as long as she keeps bringing in the best young players out there and bringing out their potential, I think we can look forward to a long run of great teams, first-rate competition and championship seasons. So I am pleased that Sports Illustrated has acknowledged what so many of us already know. She's on the cover—for anyone involved in athletics, this is one of those moments that you never forget.

Mr. President, we are proud of Coach Pat Summitt in Tennessee. We're honored to see her on the cover of Sports Illustrated. She deserves this recognition and I send along my best wishes to her.●

COMMENDING PRIDE ANTI-DRUG GROUP FOR REPRESENTING U.S. AT UN MEETING

● Mr. COVERDELL. Mr. President, the Atlanta-based National Parents' Resource Institute for Drug Education (PRIDE) recently represented the United States at the World Youth Consultation for a 21st Century Free of Drugs, sponsored by UNESCO and the United Nations Drug Control Program on February 9 in Paris.

Jody Cameron and Gary Lewis, members of the PRIDE staff, joined 21 young people from other nations in drafting a Youth Charter for a 21st Century Free of Drugs that will be presented to the United Nations General Assembly in June. The charter will establish a global network of youth programs for drug abuse prevention.

PRIDE was the only American youth-serving organization invited to attend the meeting at UNESCO headquarters. Cameron and Lewis will also take part in a subsequent meeting in Alberta, Canada in April and at the Special Session on Drugs of the UN General Assembly in New York this summer.

As one who has long worked with the PRIDE organization, I commend them for the recognition of their leadership in the drug use prevention arena that is signified by their participation in

these important UN efforts and know that the United States could not ask for more outstanding representation in these venues.●

''HUMANITARIANS OF THE YEAR'' AWARD RECIPIENTS

● Mr. ABRAHAM. Mr. President, I rise today to acknowledge the good work of Dr. and Mrs. Donald Austin, of Grosse Pointe, Michigan. Together, as a team, Dr. and Mrs. Austin have worked on behalf of numerous charitable organizations in Southeastern Michigan for almost thirty years. Dr. Austin, a neurosurgeon, and Mrs. Dale Austin, a civic leader, consistently and selflessly contribute both their time and effort to their surrounding community and to the State of Michigan.

It is with great pleasure that I announce that Dr. And Mrs. Austin are recipients of this year's March of Dimes ''Humanitarians of the Year Award.'' The Austins are being honored with this award as a result of their combined contributions to their community. They will be given their awards at the 26th Annual March of Dimes Sweetheart Ball on Saturday, March 7, 1998 in Dearborn, Michigan. I extend my sincerest congratulations to Dr. And Mrs. Austin.●

''HUMANITARIANS OF THE YEAR'' AWARD RECIPIENT

● Mr. ABRAHAM. Mr. President, I rise today to acknowledge Mr. Don H. Barden, of Detroit, Michigan, for his strong commitment to causes that benefit the Detroit community. Mr. Barden, a businessman, has guided the Barden Companies Inc. from revenues of $600,000 to over $90 million in 11 years, making it the thirteenth largest black-owned business in the country. In addition, Mr. Barden is active in a variety of civic and business groups.

It is with great pleasure that I announce that he is the recipient of this year's March of Dimes ''Humanitarians of the Year Award.'' Mr. Barden is being honored with this award as a result of his strong commitment to the Detroit community. He will be given his award at the 26th Annual March of Dimes Sweetheart Ball on Saturday, March 7, 1998 in Dearborn, Michigan. I extend my sincerest congratulations to Mr. Barden.●

''HUMANITARIANS OF THE YEAR'' AWARD RECIPIENT

● Mr. ABRAHAM. Mr. President, I rise today to acknowledge Tony Soave, of Grosse Pointe Farms, Michigan for the contributions he has made to the Detroit area, as well as to the State of Michigan. Mr. Soave is the president of Soave Industries. Under his guidance, City Management Corporation, the environmental arm of Soave Enterprises, became the largest independent waste management company in Michigan and an industry leader in environmental practices and community responsibility. City Management Corporation has contributed greatly to the community by ''adopting'' schools in Detroit, sponsoring students in co-op education programs and offering scholarships. Tony has also made possible the restoration of economic life to abandoned and underutilized properties.

It is with great pleasure that I announce that he is the recipient of this year's March of Dimes ''Humanitarians of the Year Award.'' Mr. Soave is being honored with this award as a result of his strong commitment to the Detroit community. He will be given his award at the 26th Annual March of Dimes Sweetheart Ball on Saturday, March 7, 1998 in Dearborn, Michigan. I extend my sincerest congratulations to my very good friend Tony Soave.●

''HUMANITARIANS OF THE YEAR'' AWARD RECIPIENT

● Mr. ABRAHAM. Mr. President, I rise today to acknowledge Anne Simons, of Detroit, Michigan for her tireless commitment to countless charitable causes in the Metro-Detroit area. I am very proud, on behalf of the State of Michigan, to recognize her activity in many organizations.

It is with great pleasure that I announce that Ms. Simons is the recipient of this year's March of Dimes ''Humanitarians of the Year Award.'' Ms. Simons is being honored with this award as a result of her strong voluntary commitment to the Detroit community. She will be given her award at the 26th Annual March of Dimes Sweetheart Ball on Saturday, March 7, 1998 in Dearborn, Michigan. I extend my sincerest congratulations to Ms. Simons.●

TRIBUTE TO MAYOR ERNEST THOMPSON

● Mr. BINGAMAN. Mr. President, I rise today to pay tribute to Mayor Ernest Thompson who has announced his retirement after 26 years as Mayor of Artesia, New Mexico. I am proud to honor this great New Mexican, who personifies leadership and commitment to public service and to his community.

Mr. Thompson was first elected Mayor of Artesia in 1972 and has served continually for seven terms since then. A lot has changed in Artesia since Mayor Thompson was first elected. He remembers that when he first started, the city had no money for some of the most basic municipal necessities. For example, he remembers that the garbage trucks didn't even have doors.

Mayor Thompson has helped to turn the city around. Under him, the city's equipment has been improved, new construction has been started, and Artesia's economy has flourished. During his tenure, Mayor Thompson has been pivotal in bringing the Federal Law Enforcement Training Center to Artesia, in improving the conditions of the streets and parks and in the creation of Artesia's industrial park, police and fire stations, a retard dam, and many other projects important to the community of Artesia.

Mayor Thompson has not only been an active mayor for Artesia; he has also served in many other leadership roles. He has been a member of the National League of Cities, Southeastern New Mexico Economic Development District, and the New Mexico Municipal League, for which he has served as President, and as well as First and Second Vice President

He is also a tireless contributor to community organizations. He has served as president of the Artesia Rotary Club, the New Mexico Gideons, the Artesia Quarterback Club, and the Parents and Boosters Clubs. He is the Finance Chairman for the First Methodist Church of Artesia and has a 46 year association with the Boy Scouts of America, for which he has served as everything from Cub Master to District Chairman. He is also the recipient of the Boy Scouts' Silver Beaver Award.

Mayor Thompson has been involved in so much as Mayor that we are thankful for, but he would probably say his greatest accomplishment is his marriage of over 55 years to his wife, Grace. Together, they have one son and two grandchildren.

Mr. President, I would like to take this opportunity to personally thank Earnest Thompson for his years of dedication. New Mexico will miss his tireless service and we all wish him and his family the best in the coming years.●

RETIRING ARTESIA MAYOR ERNEST THOMPSON

● Mr. DOMENICI. Mr. President, I rise to pay tribute to a man who is an accomplished public servant and friend—Ernest Thompson, mayor for the City of Artesia, New Mexico. On March 3, Mayor Thompson retires after guiding this southeastern New Mexico community for the past 26 years.

Without any hesitation, it can be said that Artesia, the self-proclaimed ''City of Champions,'' is a better place to live because of Ernest Thompson.

I want to personally thank Mayor Thompson for being a friend and compatriot over the years. He ascended to the mayorship of Artesia in 1972, the same year I was elected to the U.S. Senate. Since then, we have developed a very good personal and working relationship that I believe has been as rewarding to the people of Artesia as it has been to us personally.

Having once been in a mayoral position myself, I recognize Mayor Thompson's 26 years of public service as an example for anyone who wants to be in politics at the local level. His tenure represents a shining example of dedication, persistence, hard work, honesty and integrity.

Like the artesian wells that were once common in the area, Artesians

have a certain pride in their community that bubbles to the surface when they look at their past and to the future of their city. They are proud of the steady growth of their quaint town, its schools, and its bedrock values. In many cases, Ernest Thompson has helped foster that pride through his tenacious leadership.

When he leaves office this spring, he will leave to his successor a city with greater economic growth and job opportunities, better roads and infrastructure, and increased services for children and seniors. Through booms and busts over the past quarter century, Ernest Thompson has been a staunch promoter and champion of Artesia, and a stalwart defender for the rights and needs of small towns throughout the country.

Mr. President, let me take a moment to recount some background on my admirable friend, Ernest Thompson.

A native of central Texas, Ernest Thompson moved to Artesia in 1939 to work in the oil and gas industry, which is a major component of the economy in this region. After decades of work and dedication to his family, he retired from his job as a purchasing agent with Navajo Refining Company in Artesia.

Without previous political experience, Thompson was elected mayor of Artesia in 1972, and has maintained a dynamic presence in the community as a member of the Artesia Rotary Club, New Mexico Gideons, Artesia Quarterback Club, and the Parents and Boosters Club. For almost 50 years, he has been actively involved in promoting the Boy Scouts of America in southeast New Mexico.

But I believe his most notable contributions to the public have been as mayor. As Artesia has grown, Ernest Thompson has helped to improve the city as a whole. Since 1972, the city has gained extensive infrastructure improvements including a new wastewater treatment plant, water lines, flood protection structures, and street improvements. Under his administration, the city built a new law enforcement center, an airport terminal, a community center, as well as new fire stations. Artesia's public library and senior center have been expanded and remodeled.

Through it all, Ernest Thompson has worked effectively at state and federal levels to win support for his city. As a member of the Southeast New Mexico Economic Development District, he has toiled to build the area as a whole. A member of the National League of Cities since 1973, Mayor Thompson rallied for towns with fewer than 50,000 residents as president of the Small Cities Advisory Council. He is a member of the League's Finance, Administration, and Intergovernmental Relations Committee.

It is through this work to improve the City of Champions that Mayor Thompson and I have become friends.

I take pride in having played a role in winning for Artesia the Federal Law Enforcement Training Center. I greatly admire city leaders who are innovative in creating opportunities to bring good jobs to their community. Mayor Thompson, with the support of the city counselors, county commission and citizens of Artesia, exhibited such innovation in attracting FLETC to the city in 1989. He greatly helped in my efforts to convince the Treasury Department that Artesia would make an attractive host city for the training facility.

Almost 10 years after we landed FLETC, I am still impressed with the innovation displayed by Mayor Thompson and the community to bring opportunity to the area. Buying the abandoned Artesia Christian College campus and actively working to find a suitable tenant—in this case a FLETC satellite facility—added a new and welcome facet to the area economy.

Taken as a whole, FLETC and other accomplishments will stand as a monument to the 26 years of leadership provided by Mayor Thompson. I will always admire him and his qualities as a leader. I do not say goodbye, but congratulations and thank you. I still look forward to his sage advice and discussions about Artesia, Eddy County, New Mexico and our nation.

Finally, I think it is appropriate to note that while Ernest Thompson was working as Artesia's mayor, he was at the same time a dedicated husband and father. I know his dear wife, Grace, is thankful for his love, dedication and care during personally trying times. Together they are a marvelous couple.

Mr. President, I invite the entire Senate to take note of this tribute to an outstanding local leader as he retires from public office. I ask them to join me and the people of Artesia in expressing gratitude to Mayor Ernest Thompson for all he has done on behalf of others.●

MARKET POWER AND STRUCTURAL CHANGE IN THE SOFTWARE INDUSTRY

● Mrs. BOXER. I would like to comment on the hearing held earlier today by the Senate Judiciary Committee on ''Market Power and Structural Change in the Software Industry.''

First, I would like to commend Chairman HATCH for holding this important hearing and for his leadership on this issue.

Mr. President, today's creative and innovative software products enable us to bank, conduct research, shop and even trade securities online. And this is just the beginning. It is important therefore, that such a vast and essential resource be allowed to grow and expand in a fair and competitive environment. But recent events had threatened to case clouds over this most fundamental premise. Let me explain.

On October 20, 1997 Attorney General Reno announced that the Department of Justice would ask a federal judge to order the Microsoft Corporation to cease its practice of forcing manufacturers to sell its internet browser, Internet Explorer, with its widely used operating system, Windows 95. The U.S. District Court here in Washington, D.C. agreed, and on December 11, 1997 ruled that, pending further proceedings, Microsoft could not require purchasers of its operating system software to install its browser software.

In response to the Court's December 1997 ruling, Microsoft offered computer makers three options: (1) a version of Windows which Microsoft believed did not function; (2) a version of Windows which was more than two years out of date and no longer commercially viable; or, (3) Windows 95 bundled with Internet Explorer.

Thanks to the Department of Justice's continuing efforts, however, the storm clouds which had threatened an open and competitive market for internet browser software, now appear to be fading. On January 22, 1998, the Department of Justice and Microsoft reached an agreement in which Microsoft agreed to offer computer manufacturers a version of Windows 95 that contained a fully up-to-date operating system without its Internet Explorer internet browser.

But why should we care about this?

We should care about this because the biggest losers, perhaps, of any anticompetitive action in the internet browser industry will be the millions of everyday people who rely on the Internet. If one company gains such a huge and unfair advantage, other companies will not be able to compete; there will be no choices and innovation will be stifled.

This brings up the issue of ''open standards.'' Open standards on the Internet will allow all access to the Internet without having to rely upon any one company or any one operating platform. Open standards work against monopolies, and ultimately benefit the Internet by increasing competition among software products, resulting in lower prices and a wider selection.

As a Californian, I am concerned about this issue for yet another reason. Cutting-edge software manufacturers from my home state provide tens of thousands of people with high-paying jobs, making software manufacturing one of California's most valued industries. Industry competition is thus vitally important to my state's interest.

I appreciate the integral role the Microsoft Corporation has played and continues to play in the information age—its contributions have been most significant and important. It has made computers and computer applications more accessible to millions of people around the world, and for that, it deserves appropriate recognition and credit. Microsoft has been, and continues to be, the leader in the computer industry. But other, smaller, companies must also be given a chance to compete in the best and oldest of American traditions.

As we move further and further into the information age, the national government must ensure that competition is not eliminated. The Department of Justice should therefore be commended for acting to protect consumers and businesses alike. Similarly, Microsoft deserves credit for agreeing to settle the issue of bundling its operating system software with its internet browser software in what the Department of Justice believed to be a fair and equitable manner. Both made the right call.●

SANCTITY OF THE BALLOT

● Mr. COVERDELL. Mr. President, yesterday's Wall Street Journal lead editorial entitled ''Sanctity of the Ballot'' should be a wakeup call for America's citizens. Sadly, we can no longer assume public officials tasked with protecting your vote are able to do so. The fact is, passage of the Motor Voter Act has led to growing incidences of election fraud in communities large and small, and the problem is getting worse all the time.

The editorial highlights an important new national organization, the Voting Integrity Project (VIP), which was formed in 1996 in response to the growing abuses highlighted by the Journal. VIP is a non-profit, non-partisan coalition of citizens and civic groups. It organizes and trains citizens to protect the integrity of the vote in their own community. It also investigates and litigates important election fraud cases, including constitutional issues. It is the only independent, national organization performing this important work.

Mr. President, VIP has learned that it is nearly impossible to overturn elections once they have been certified and places its emphasis accordingly, in pro-active programs run by the citizens themselves. Indeed, American voters need to wake up to the harsh reality of today's election process and begin to equip themselves, through organizations such as VIP, to guard the sanctity of their communities' elections and their vote.

I ask that the text of the editorial be printed in the RECORD.

The editorial follows:

[From the Wall Street Journal, Mar. 2, 1998]

SANCTITY OF THE BALLOT

In a rush to make it as easy as possible for citizens to exercise their right to vote, the country has created lax registration and voting procedures that could call into question a close election any number of states. The 1983 federal Motor Voter law requires states to allow people to register to vote when they get a driver's license, even though 47 states don't require proof of legal US residence much less citizenship for such a license. ''We have the modern world's sloppiest electoral system,'' warns political scientist Walter Dean Burnham.

Media and political elites pooh-pooh such concerns, but they are genuine and growing. The House of Representatives has just dismissed an election challenge by former Rep. Bob Dornan of California. But buried in the news that Rep. Loretta Sanchez would keep her seat was the conclusion of a House task force that 748 illegal votes had been cast in an election decided by only 979 votes.

The year long investigation established 624 ''documented'' cases of non-citizens voting. Another 124 voters cast improper absentee ballots. An additional 196 votes may well have been illegal, but only circumstantial evidence existed. ''In the end of the day,'' says GOP task force member Rep. Robert Ney, ''Bob Dornan was right—there were illegal voters.'' In the Sanchez race they represented close to 1% of all votes cast. The danger is that if this is tolerated, it will only get worse.

In the wake of the Sanchez-Dornan dispute, Rep. Steve Horn, a California Republican, called for a vote on a pilot program to combat fraud in five large states. Local and state officials would be allowed, but not required, to check citizenship records with Social Security and the Immigration and Naturalization Service. If they couldn't verify citizenship, the voter would have to prove his or her status or risk being dropped from the rolls. The program included privacy protections and a requirement that it be ''uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965.''

This sensible and sensitive proposal doesn't unduly trample on immigrant rights. Almost half the states already ask for all or part of the Social Security number to register to vote. But Democrats, fresh from Ms. Sanchez's triumph, practically accused Rep. Horn of reinventing the poll tax and literacy tests of the Jim Crow era. ''It is a shame, it is a disgrace,'' said Rep. John Lewis, a veteran of the civil rights movement.

In the end, the bill won a 210–200 majority, but it failed because it was brought to the floor under a rule requiring a two-thirds majority, Rep. Horn hopes to have a vote under normal rules within a month. He points to a growing body of evidence that the potential for vote fraud is growing, noting some in the shadow of the U.S. Capitol itself.

In Washington, D.C. an astonishing one of every six registered voters can't be reached at their address of record. The city has lost 100,000 people since 1980, but registration has shot up to 86% of eligible voters from only 58%. Nationally, the average registration rate is only 66%. Felons, dead people, nonresidents and fictitious registrations clog the rolls in Washington, where anyone can walk up and vote without showing I.D.

Across the Potomac River in Virginia, Robert Beers, the voter registrar of prosperous Fairfax County, says the Motor Voter law has increased the number of registered voters, but turnout has actually fallen in recent elections. ''There is no question in my mind that we have registered people who aren't U.S. citizens,'' Mr. Beers told the Washington Times. ''Nobody worries about the rolls until you get to the election that's decided by three votes. I wish they would pay attention to it before it gets to that point.'' He is backing a state bill to require voters to show some type of photo I.D.

Last month Mississippi's legislature passed a motor voter law, but Governor Kirk Fordice issued a veto because it lacked a voter I.D. provision. ''Vote fraud is an equal opportunity election stealer,'' he says. His concerns about improper registrations are echoed elsewhere. The Miami Herald has found that 105 ballots in last year's disputed mayoral election were cast by felons. Last month a local grand jury concluded that ''absentee ballot fraud clearly played an important part in the recent City of Miami elections.'' This ''called into question the legitimacy of the results.''

In San Francisco, the Voting Integrity Project has filed suit to overturn a referendum that approved a new stadium. They cite evidence of actions by city and stadium officials to tilt the results toward a pro-stadium vote. The scandal has already been marked by the registrations of the city's election supervisor and Edward DeBartolo, chairman of the San Francisco 49ers.

Everyone supports the right to vote, but an equally important right is the guarantee of elections that are fair and free of fraud. Right now a growing number of states can't guarantee the integrity of their results, and that inevitably will lead to an increasing cynicism and disenchantment with the democratic process.●

NATO EXPANSION AND THE EU

● Mr. MOYNIHAN. Mr. President, today the Senate Foreign Relations Committee has reported the Resolution of Ratification to NATO enlargement. It is appropriate at this time to inform my colleagues of my intention to offer a condition to the Resolution of Ratification when it comes to the Senate for debate linking NATO expansion with economic expansion. I am pleased to be joined in this effort by the senior Senator from Virginia, Senator WARNER.

The former Majority Leader, Howard Baker, Jr., our colleague Sam Nunn, Brent Scowcroft, and Alton Frye recently wrote an article for The New York Times in which they assert that ''Linking NATO expansion to the expansion of the European Union would underscore the connection between Europe's security and its economy—and offer certification that entrants to NATO could afford to meet its defense obligations.''

It is our contention that Poland, Hungary, and the Czech Republic face no security threats, so strengthening their economies and democratic institutions should be their first priority.

All three of the candidates are eager to join the European Union (EU), which has now decided to begin accession negotiations with them. NATO's decision at Madrid to invite these countries to negotiate for membership preceded the EU offer to negotiate accession. The EU's offer affords the Senate an opportunity to lend support to these countries' bid for EU membership, without accepting any presumption that entry into the EU guarantees admission to NATO.

A provision to link admission to NATO with admission to the EU will encourage expeditious negotiations by the EU, and will allow the three countries to concentrate their full resources on economic modernization, rather than diverting precious resources to military expenditures.

I ask that the text of the condition be printed in the RECORD.

The text of the condition follows:

At the end of section of the resolution (relating to conditions), add the following:

( ) DEFERRAL OF RATIFICATION OF NATO ENLARGEMENT UNTIL ADMISSION OF POLAND, HUNGARY, AND CZECH REPUBLIC TO THE EUROPEAN UNION.—

(A) PROHIBITION.—The President shall not deposit the United States instrument of ratification prior to the latest date by which Poland, Hungary, and the Czech Republic have

acceded to membership in the European Union and have each engaged in initial voting participation in an official action of the European Union.

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph may be construed as an expression by the Senate of an intent to accept as a new NATO member any country other than Poland, Hungary, or the Czech Republic if that country becomes a member of the European Union after the date of adoption of this resolution.●

CONGRATULATIONS TO COMMUNITY HOSPITAL AND NURSING HOME OF ANACONDA

● Mr. BURNS. Mr. President, it is my pleasure to congratulate Community Hospital and Nursing Home of Anaconda, Montana, for being listed among the top 100 hospitals in the nation in 1997. The entire staff of Community Hospital, from CEO Sam Allen on down, should be very proud of their hard work and success in caring for the Anaconda community.

This distinction is based on an annual performance measurement including patient care, operations, and financial management conducted by HCIA and William M. Mercer, Inc. The study, 100 Top Hospitals—Benchmarks for Success, looked at 1,300 hospitals with fewer than 99 acute-care beds, and Community was one of 20 that made the Top 100 from that size category.

The performance measures of the Benchmarks for Success are objective—such as risk-adjusted mortality index and expense per adjusted discharge (case mix and wage adjusted)—which means that Community Hospital's success is documented by experts in the field. I know that Community's patients and staff knew this without the performance study, but I point this out because this isn't a typical award. Community has built itself into a national model, and for that I congratulate them.●

ABRAHAM SPEECH ON BUDGET SURPLUS

● Mr. COVERDELL. Mr. President, I rise to share with my colleagues a speech which I believe provides a number of important ideas and policy positions we should be discussing as we enter the era of budget surpluses.

Because of strong economic growth, the Office of Management and Budget reports that we will begin running a surplus in 2001, and that surplus will total $447 billion by 2005.

In a speech before the Detroit Economic Club on February 17, Senator ABRAHAM sought to start a dialogue on how best we as a nation could approach the upcoming and unaccustomed circumstance of budget surpluses. In my view he offered excellent suggestions on how to save Social Security, provide comprehensive tax reform and invest in infrastructure and human capital, all within the confines of a limited budget surplus.

His specific proposals, limited private investment accounts within the Social Security system, an alternative flat tax and scholarships for low income students entering hi-tech fields, all deserve our attention. It is my hope that they will help spur fruitful debate concerning how we can best approach the new century with continued economic growth, expanding opportunity and confidence in our fellow citizens.

I ask that Senator ABRAHAM's speech be printed in the RECORD immediately following my remarks.

The speech follows.

SURPLUS POLITICS: WHAT CONGRESS SHOULD DO

By Senator Spencer Abraham

Before I begin today, I would like to say a few words about the situation in Iraq. When I last spoke here a year ago, it was under very different circumstances. Today we face an imminent crisis in the Middle East. As you know, it is entirely possible that our troops, including a member of my own staff, may soon find themselves in a combat situation. I know I speak for everyone in this room when I say how proud we are of the young people defending our country, and how much we appreciate all that they have sacrificed already. I also know that I speak for everyone here when I say that I hope and pray that we can settle this crisis through diplomatic means, without putting our troops in harm's way. But if we can't, I know we will all support them in every way possible.

THE ECONOMY

But I came here to talk about a more pleasant subject: our economy. And I think this is a pleasant subject for the simple reason that the news continues to be good. Gross Domestic Product is up 3.7 percent over last year, in real terms, that's up 16.3 percent since 1994. Inflation is down to 1.7 percent, down 27 percent since 1994. Unemployment last year averaged just 4.9 percent, down from 6.1 percent in 1994. Interest Rates are at 30 year lows, and down 20 percent from 1994. Industrial production is up 5.9 percent over last year and 14 percent since 1994. And we finally have managed to pass a balanced budget—one that includes tax cuts for working Americans.

The issue we face today, in my view, is "how can we keep this economic growth going strong into the next century?" And I think we can see the outlines of a workable program right here in Michigan. If we look back to 1990, we can see the progress we have made here in Michigan, as well as how we have made it.

In 1990, Michigan had the highest unemployment rate of any industrial state and a $1.8 billion deficit, on a budget of only $8 billion. Now our state is a thriving, fiscally responsible beacon for free enterprise. Since 1990 Michigan has created well over half a million new jobs, brought unemployment down to well under 4 percent, and produced balanced budgets and even a budget surplus.

How did we get here from there? John Engler became governor, and he cut taxes over 20 times, instituted a program of regulatory reforms lessening the burden of a state government on our job creators, brought spending under control and balanced the state budget.

But Governor Engler knows that you can never simply rest on your laurels, particularly when the goal is continued prosperity. That is why, if the Governor gets his way, we'll cut taxes and regulations further and expand our pro-growth policies into the next century.

On the national level we can't rest on our laurels either. The question is, how can we best build on our recent progress? Because of strong economic growth, for the first time in recent memory we face the prospect of budget surpluses. According to the Office of Management and Budget, we will begin running a surplus in 2001, and that surplus will total $447 billion by 2005.

SURPLUS OPTIONS

Assuming we can maintain the budgetary discipline and economic growth necessary to fully realize it, the question is, what are we going to do with this surplus? Now, just about everyone in Washington, DC has their own answer to this question. They fall into four camps. Some say that we should use it to cut taxes. Others respond that we should use it to pay down the national debt. Still others have called on us to use it to "save Social Security." Finally, a number of people have said that we should use the surplus to invest in social programs, human capital and infrastructure.

Of course, all of these answers sound good—but how we handle the specifics is very crucial.

First let's look at those who say simply "cut taxes." That sounds good. I for one believe that one of the reasons Republicans were put on this Earth was to cut taxes. But how? Do we just continue the recent approach of more targeted tax cuts, as the President suggests? Cut a tax here, create a deduction there?

Last year's tax cut was needed and welcome. But the legislation putting it into effect added or amended over 800 sections in an already complicated tax code. I question whether we should just continue down that path.

Paying down the national debt sounds appealing too. But what does it really mean? Remember, even if we use the entire projected surplus, we would only pay down less than 10 percent of the debt. And don't forget, a significant portion of the debt is held by foreign investors. Does it really make sense to use American taxpayers' dollars to make early debt payments, to foreign investors like the central banks of China, Japan and Germany?

Saving Social Security as the President suggests is a good idea too. But how we might employ a short range surplus to do it is the issue. For example, if we simply dump the budget surplus into the Social Security Trust Fund, it would only extend the life of Social Security for less than 2 years.

Which brings us to the fourth and final option: investing the surplus in social human capital and infrastructure. Again, the question is, what does this mean? Based on the President's speech and the comments of other such advocates in Washington, it means rebuilding the Great Society, restoring many of the welfare programs we reformed and launching new programs which will be impossible to end or reduce at a later date.

As my colleague Chuck Grassley says, it appears that "the era of saying that the era of big government is over, is over."

As I have said, in Washington the debate over these choices has begun. And for the most part the attitude is that they are mutually exclusive. Moreover, because too much of the early thinking takes a "business as usual" approach as described above, rather than a creative and innovative one, we aren't likely to make much progress on any front. To have impact we must think in terms of new ideas and approaches. And, a set of strong pro-growth policies must underlie any strategy for using the surplus.

If we are creative in this sense, I believe it is possible for us to attack the burdensome tax code, the looming Social Security crisis, the human capital and infrastructure challenges we confront, and our gargantuan debt, and make great progress on all fronts.

AN INTEGRATED PROGRAM

I see the doubt on your faces. You're thinking we can't do it all. And I confess to having a few doubts of my own. But, for just a moment, suspend your judgment and consider several possible prescriptions. Today I want to share with you some ideas both as to surplus priorities and as to specific policy concepts, with the hope of starting a dialogue on how we should approach the upcoming era of surpluses, in the best interests of Michigan and the nation.

Let's begin with Social Security. Ladies and gentlemen, if we properly use up to two-thirds of the surplus, we can simultaneously save Social Security and dramatically reduce the federal debt. We do this, not by perpetuating the current system with its paltry 1 to 2 percent return on investment, but by employing the surplus to subsidize the transition to a system that would allow anyone in Social Security who so chooses, to invest up to 2 or 3 percent of their earnings—or ⅓ to ½ of the employee share of their payroll taxes, in a private investment account.

As you know, the Social Security system clearly needs saving. As of now the Congressional Budget Office estimates that it goes broke in 2030. If we do not take action, the taxes needed to finance currently projected Social Security benefits in 2030 would be equal to about 8 percent of Gross Domestic Product—equivalent to doubling all personal income tax rates on working Americans. Moreover, as I've said, simply deploying the surplus to the trust fund would only extend this between one and two years.

How can we prevent such a catastrophe? One way is by using part of the surplus to fund a system of Personal Retirement Accounts modeled on the successful and widely used 401(k) plans. People would have the option of investing ⅓ to ½ of their payroll tax contributions to a Private Retirement Account, rather than to Social Security. The employee would be able to invest the money in stocks, bonds and mutual funds. Even with rules guarding the safety of the investments, the return would be far higher than the current system's 1 to 2 percent. Funds would accumulate tax free until retirement, when the employee could withdraw the balance. These dollars would then be used to partially offset the trust funds' obligations to participating individuals, by a fraction of the private investment account payout.

Meanwhile, as we give people a payroll tax cut to finance their private investment accounts, we would use an equal amount of surplus dollars to keep the trust fund whole. In this way we would lower the financial pressure on the system over the long term, saving it from insolvency and dramatically reduce if not eliminate the need to raise payroll taxes.

The economy also would benefit. Where Social Security monies now exist only in theory or in government debt instruments, they now would add to the pool of money available for investment and expansion, thus lowering interest rates and spurring growth. And higher growth would further strengthen the Social Security system. What is more, we could keep our eyes on our money.

For those at or nearing retirement, including baby boomers, this strategy would ensure that everyone receives their social security. But for American young people in particular, this would produce a substantial tax cut and greater security for their old age. That security is particularly important since one recent pool shows that more people under 30 believe that they will personally see a flying saucer in their lifetimes than believe they will see a Social Security check.

Under this plan, a married couple with a combined income of $60,000 would get a $1,200 annual tax reduction. By the time this couple retired, after 35 years of consistent investment, even at a relatively low 5.5 percent rate of return, they would have $120,000 in supplemental retirement income.

Well that's a plan for Social Security. Now remember, we have used at most two thirds of the surplus. The next 25 percent we should consider devoting to taxes. But let's not get into another battle over competing tax cuts. Instead, if we are going to employ any of the surplus on taxes, I believe it should be used to finance an overhaul of our antiquated tax system.

As you know, the President has said in his State of the Union address and since, that whatever we do ''we shouldn't use any of the surplus for tax cuts.'' But I find it hard to take him very seriously when in the same speeches, he himself called for major tax cuts and, more importantly, the launching of $125 billion of new, impossible to restrain, spending programs.

So in response to the President I would say this: if the taxpayers are sending over $400 billion more to Washington then even the DC politicians asked for or expected, don't they deserve to have a tax system that's right for the 21st century, instead of the broken, intrusive, complicated one we have today?

Ladies and Gentlemen, we need a tax system that is fairer, simpler, and flatter and an IRS that is under control.

We need this to restore public confidence in the tax system. A recent USA Today poll found that 60 percent of Americans believe the IRS ''frequently abuses its powers.'' Fully 95 percent believe the tax code itself isn't working and must be changed.

If we had an Economic Protection Agency to watch over the economy the way the Environmental Protection Agency watches over the environment, the IRS code would be labeled toxic. IRS forms would come with a warning label: The Economist General of the United States has determined that the Internal Revenue Code is hazardous to America's economic health and could cause financial devastation to your family.

The problem is that we do not have majority support for any one, particular alternative. According to surveys, the most popular alternative is a flat tax, but even that lacks a clear majority. This is true for a number of reasons but, primarily, because many fear that a flat tax might cost them money, due to a loss of deductions and because of concerns about some of the flat tax proposals floating around out there, which would essentially allow many of the most affluent Americans to pay no tax at all.

So, what do we do? Stick with the current broken system? Impose a flat tax or a sales tax on all Americans whether they like it or not?

Well, here's a proposition. Why force a new system on the taxpayers, or force them to live under the old one? Why not give taxpayers a choice? Let's strive to achieve some consensus. Why not give taxpayers the option of sticking with the old system or of choosing something new.

To that end, with a strong plurality of Americans preferring a flat tax, I've been exploring the concept of an Alternative Flat Tax, and I'd like to outline it here today for your consideration.

Rather than simply impose a new tax structure, we would allow people to opt out of the current system and choose a 25% flat tax instead. Applicable to income above a generous—family—based exclusion.

No one would pay more tax under the Alternative Flat Tax than they do under the current system, for the simple reason that no one would be forced to choose the new system.

In addition to the optional feature, the plan would also, of course, possess the usual appeal of a flat tax:

It's simple—it could be computed on a post card, and it would not entail the development of the kind of complicated transitional tax rules that would be required if we mandated that everyone change to a whole new system.

And it's pro growth—driving down the top marginal tax rate on individuals and businesses to 25 percent would give a tremendous boost to incentives to work, save and invest.

Now, let me talk about how we might invest the rest of the surplus. The final ingredients we need to enjoy growth and prosperity in the 21st century are an upgraded infrastructure combined with a well-trained workforce. And the remainder of the surplus is sufficient to achieve just that.

I don't think I have to tell anyone here about the problems we have with our infrastructure. Over half our roads and bridges are in poor shape. That means that we must spend more on transportation. It also means we must stop spending the road dollars of Michigan and 20 other states to subsidize other people's freeways. An investment of about $5 billion of the surplus per year; money that is already in the highway transportation trust fund, will make that happen.

In addition to our transportation infrastructure, we need to look to our human capital. No input is more important to a business than properly skilled workers. And we as a nation are not producing enough highly skilled workers.

A study conducted for the Information Technology Association of America estimates that there are more than 346,000 unfilled positions for highly skilled workers in American companies.

Bureau of Labor Statistics figures project that our economy will produce 100,000 information technology jobs in each of the next 10 years. Meanwhile, our universities will produce less than a quarter that number of information technology graduates.

This is serious, for Michigan and for the nation. Here in Michigan, 24 of every 1,000 private sector workers are employed by high-tech firms. For the nation, the Hudson Institute estimates that the unaddressed shortage of skilled workers throughout our economy will result in a 5 percent drop in the growth rate of GDP. That translates into about $200 billion in lost output, nearly $1,000 for every American.

This problem calls for both a short term and a long term solution.

For the short term, the only immediate source of talent to fill the gap is immigration. But, by this summer American businesses will reach the limit on the small number of highly skilled temporary workers they can currently bring in from abroad. Last year our employers reached this 65,000 cap for the first time in history, and we did it by the end of August. If no action is taken this year, the cap will be reached by February of 1999 and even earlier the following year. This would be disastrous. If American companies cannot find home grown talent, and if they cannot bring talent to this country, some of them will move their operations overseas, taking American jobs with them.

And that is why I am going to use my position as Chairman of the Senate Immigration Subcommittee to propose that we increase the number of higher skilled temporary workers we allow into the United States. This will keep American companies in this country, saving American jobs and contributing to the growth of the economy. It would also give us time to formulate a long-term solution.

In my view, we can produce the talent here in America to meet our skilled labor needs. And that's where the surplus could come in. Through wise investments in human capital we can give kids in this city, and in every

other city in America, including kids whose opportunities seem severely limited, the chance to be part of the new high-tech economy.

Our young people have what it takes to be valuable employees in our high-tech age. But our educational system is not giving them the skills they need to succeed. The National Research Council estimates that three quarters of American high school graduates would fail a college freshman math or engineering course. Most don't even try. Only 12 percent of 1994 college graduates earned degrees in technical fields.

This is not acceptable. In a highly advanced economy like ours we cannot continue to function without highly skilled workers. And our workers cannot continue to prosper unless our educational system gives them the skills they need to succeed.

To begin, I propose we invest $1 billion per year, the balance of the surplus, to annually provide at least 100,000 more Americans with scholarships for study in scientific and technical areas. Let's start training unemployed Americans in skills needed in the information technology industry. Combined with approaches to increase parental choice in determining their children's schooling and to move resources out off Washington and back to the school districts, local school boards and parents, I believe that this investment can increase the skill levels of our workers, to everyone's benefit.

A GOLDEN OPPORTUNITY

Well, these are some of the ideas I am considering, one possible blueprint for our entry into the age of surplus.

In closing let me say I believe we have a golden opportunity. As we stand on the edge of a new century, possibilities are opening up for all Americans. We remain the world's richest nation, and we are richer than we have ever been. Now, after decades of overtaxing and overspending, Washington finally has managed to balance the budget and, provided we institute policies that make sense, soon will produce a surplus.

But this opportunity will not be with us forever. If we do not plan out how we should use the impending surplus it will disappear into more ''Washington-knows-best'' programs that will simply trap more Americans into lives of dependency and desperation.

But if we are creative we can forge a new path. We can move forward, with optimism, secure in the knowledge that our people want opportunity, not handouts, that our economy can continue to produce prosperity, if only we will let it, and that the entrepreneurial spirit remains alive in America.

We can move toward growth and prosperity for the next century if we are willing to use the surplus as a tool to increase savings and investment, to get the Social Security system back on a sound footing through individual choice, to overhaul our tax system, giving greater control over their money back to our taxpayers, and to rebuild the infrastructure and human capital so crucial to our economy.

Responsible, limited government, combined with the spirit of the American people, can lead us into a new century of unprecedented growth and opportunity, in which the American dream can become a reality for everyone fortunate enough to be an American.

I would welcome your input, here and now or in the future, whether regarding these principles or regarding the reforms I have talked about today. I hope that we will have a chance to discuss these issues, which will be so much a part of public debate in Washington in the coming months, and I thank you for having me speak today.●

CONFIRMATION OF RICHARD YOUNG

● Mr. COATS. Mr. President, yesterday the senate voted to confirm Judge Richard Young to be U.S. district judge for the southern district of Indiana. I rise today to express my strong support for the senate's actions. Judge Young has distinguished himself both professionally and in community service, and it is my honor to commend him to the senate as an excellent choice for the federal bench.

Judge Young has earned an outstanding reputation through his eight years as Vanderburgh circuit court judge, and as a trial attorney for 10 years before that. He has broad legal background, both in his job as judge, and in professional organizations. Currently a member of the board of directors of the Indiana judicial conference, Judge Young also is the former president of the Evansville Bar Association. In addition, it is significant to note that Judge Young has worked in the Department of Justice, and has served as a public defender in Vanderburgh county.

During his time as judge, Judge Young has shown himself to be a diligent worker, handling in a recent year 79 jury trials.

However, it is not only Judge Young's extensive experience and excellent work ethic that make me confident he will bring sound, solid hoosier values to the federal bench. Judge Young also has a proven record of dedication to community service. Before he took the bench, Judge Young served on the board of trustees of the museum of arts and science of the community foundation, and the community corrections advisory board. Judge young has also served in the Easter Seals Society and has had a role in supporting the Evansville rehabilitation center.

Clearly, Judge Young is a dedicated practitioner of jurisprudence and dedicated servant of his community. I am confident he will be an excellent judge and a credit to the state of Indiana, and it is for this reason I offer my support of his nomination to the federal bench.●

THE READING EXCELLENCE ACT

● Mr. COVERDELL. Mr. President, over the weekend, President Clinton used his radio address to call for Senate action on the Reading Excellence Act which seeks to address our Nation's literacy crisis. Under the leadership of House Education and Workforce chairman, BILL GOODLING, this bill passed the other body unanimously in November 1997. I have introduced similar legislation in the Senate as S. 1596. The Reading Excellence Act is also a key component of the Senate Republican leadership's education package, the Better Opportunities for Our Kids and Schools Act, or ''BOOKS''. While I am pleased that the President has urged passage of our legislation, it should be clear to everyone that our approach represents a clear contrast to the literacy initiative the President had initially proposed. Having said that, we welcome President Clinton to real education reform—you've come a long way.

We clearly have a literacy crisis in this Nation when four out of 10 of our third-graders can't read. Without basic reading skills, many of these children will be shut out of the workforce of the 21st century. According to the 1993 National Audit Literacy Survey, more than 40 million Americans cannot read a phone book, menu or the directions on a medicine bottle. Those who can't learn to read are not only less likely to get a good job, they are disproportionately represented in the ranks of the unemployed and the homeless. Consider the fact that 75 percent of unemployed adults, 33 percent of mothers on welfare, 85 percent of juveniles appearing in court and 60 percent of prison inmates are illiterate.

Although over $8 billion is spent by the Federal Government each year to promote literacy, little progress has been made. Last year, President Clinton recognized this problem, but his ''America Reads'' proposal offered more of the same. Under the President's plan, the government would recruit one million volunteers to teach reading, under the direction of AmeriCorps. Rather than relying on a million untrained volunteers to teach reading to our young children, we offered a better approach which the President has now endorsed: Let's help our reading teachers do a better job. Our legislation, the Reading Excellence Act, would accomplish the following:

First, our bill would focus on training teachers to teach reading—less than 10 percent of our teachers have received formal instruction on how to teach reading. Moreover, we would ensure that teachers are taught in methods proven by sound scientific research to be effective, such as phonics.

Second, the Reading Excellence Act authorizes grants for extra tutorial assistance for at-risk kids. Parents with children experiencing reading difficulties could apply for funds to purchase extra help from a list of providers supplied by their school.

Third, our bill provides literacy assistance for parents so they can be their children's first and most important teacher. It also ensures that 95% of the literacy funds are driven to the classroom where they will help kids the most.

In last year's appropriations process, $210 million was appropriated for a literacy program, contingent on passage of an authorization bill by July 1, 1998. As I stated, the House has already unanimously passed this bill. It is now up to the Senate to act on similar legislation before the schools let out for summer. The Reading Excellence Act will provide today's children the tools to be successful in tomorrow's workforce. Helping to ensure every child can

read is one of the best jobs skills, welfare initiatives or crime bills we can pass this Congress.●

APPOINTMENTS BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Majority Leader, pursuant to Public Law 105–92, appoints the following individuals as participants in the 1998 National Summit on Retirement Income Savings:

Wayne Angell of Kanasas, Terry Atkinson of New York, John Bachmann of Missouri, Richard Billings of Iowa, Jay W. Bixby of Maryland, Ken Blackwell of Ohio, Jon A. Boscia of Indiana, Donald J. Butt of Colorado, Paula Calimafde of Maryland, Marshall N. Carter of Massachusetts.

Nelson Civello of Minnesota, Jerry Dattel of Louisiana, Charles Elliott of Mississippi, Bill Eubanks of Mississippi, Gary Fethke of Iowa, David Fisher of California, Lynn Franzoi of California, William J. Goldbert of Texas, Joe Grano of New York, Thomas J. Healey of New York.

Melissa Hieger of Massachusetts, David R. Hubers of Minnesota, Marlynne Ingram of Iowa, Rich Jackson of Idaho, William M. Lyons of Missouri, Joe Malone of Massachusetts, Nancy J. Mayer of Rhode Island, Ron E. Merolli of Vermont, Dan Mitchell of Washington, D.C., James A. Mitchell of Minnesota.

Byron D. Oliver of Connecticut, Aubrey Patterson of Mississippi, Henry M. Paulson, Jr. of New York, Susan Phillips of Washington, D.C., Michael E. Pietzsch of Arizona, Kenneth Porter of Delaware, Richard L. Prey of Iowa, Curt Pringle of California, Ronald W. Readmond of Maryland, Frank Ready of Mississippi.

Elaine D. Rosen of Maine, Heather Ruth of New York, Linda Savitsky of Connecticut, John L. Steffens of New Jersey, Thomas C. Walker of Iowa, Brad Walsh of Mississippi, Carolyn L. Weaver of Washington, D.C., Milton Wells of Virginia, James Wordsworth of Virginia, James W. Ziglar of Washington, D.C.

APPOINTMENT BY THE DEMOCRATIC LEADER

The PRESIDING OFFICER. The Chair announces on behalf of the Democratic Leader, pursuant to Public Law 105–134, his appointment of Donald R. Sweitzer, of Virginia, to serve as a member of the Amtrak Reform Council.

ORDERS FOR WEDNESDAY, MARCH 4, 1998

Mr. CHAFEE. I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9:30 a.m. on Wednesday, March 4; that immediately following the prayer, the routine requests through the morning hour be granted and the Senate resume consideration of amendment No. 1682, offered by Senator LAUTENBERG, to S. 1173, the ISTEA legislation as under the previous order.

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

PROGRAM

Mr. CHAFEE. Tomorrow, the Senate will resume consideration of S. 1173, the ISTEA legislation. Under the consent agreement, the Senate will conclude 1 hour of debate on the Lautenberg amendment regarding drinking levels, with time equally divided, with a vote occurring on or in relation to the Lautenberg amendment at approximately 10:30 a.m. Therefore, Members should be prepared for the first rollcall vote tomorrow at 10:30.

Following that vote, the Senate will continue to consider amendments to the ISTEA legislation. I hope at least two of the major amendments to this legislation can be offered and debated during Wednesday's session of the Senate. Members should therefore anticipate a busy voting day tomorrow. I certainly hope it will be a busy voting day tomorrow.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. CHAFEE. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:20 p.m., adjourned until Wednesday, March 4, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 3, 1998:

UNITED STATES INTERNATIONAL TRADE COMMISSION

THELMA J. ASKEY, OF TENNESSEE, TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 16, 2000, VICE PETER S. WATSON, RESIGNED.

JENNIFER ANNE HILLMAN, OF INDIANA, TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION FOR THE TERM EXPIRING DECEMBER 16, 2006, VICE DON E. NEWQUIST, TERM EXPIRED.

STEPHEN KOPLAN, OF VIRGINIA, TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION FOR THE TERM EXPIRING JUNE 16, 2005, VICE JANET A. NUZUM, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. FREDERICK H. FORSTER, 0000.

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT IN THE MEDICAL CORPS (MC) AND JUDGE ADVOCATE GENERAL CORPS (JA), AS INDICATED, AND REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 628, 531, AND 3064:

To be colonel

FREDERICK P. HAMMERSEN, 0000
RONALD L. PERRY, 0000

To be lieutenant colonel

DOUGLAS E. JUDD, 0000
JAMES M. KITARHARA, 0000
MARTHA K. LENHART, 0000(MC)
DOUGLAS J. LITAVEC, 0000
BRUCE A. PEEBLES, 0000
ALAN S. VANNORMAN, 0000(MC)

To be major

WILLIAMS W. MCQUADE, 0000(JA)
* DONALD C. RIVERS, 0000
EUGENE E. STEC, 0000
THOMAS M. WALTON, 0000

IN THE COAST GUARD

THE FOLLOWING REGULAR AND RESERVE OFFICERS IN THE UNITED STATES COAST GUARD TO BE PERMANENT COMMISSIONED OFFICERS IN THE GRADES INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

To be lieutenant commander

WILLIAM J. SHELTON, 0000

To be lieutenant

JONATHAN C. BURTON, 0000
KELLY A. BOODELL, 0000
TROY K. TAIRA, 0000
ELISA P. HOLLAND, 0000
BRIAN T. MCTAGUE, 0000
STEPHEN P. MCCLEARY, 0000
FRANK D. WAKEFIELD, 0000
TERRENCE M. JOHNS, 0000
JOHN R. MILLER, 0000
DAVID F. BERLINER, 0000
MICHAEL R. WASHBURN, 0000
JAMES W. NELSON, 0000
STUART E. DUTTON, 0000
MICHAEL G. SARAMOSING, 0000
HERBERT L. OERTLI, 0000
DWAYNE A. BERRY, 0000
RANDY D. SUNDBERG, 0000
KEVIN B. WILSON, 0000
JAMES W. MITCHELL, III, 0000
SCOTT R. LINSKY, 0000
ANN H. BRYANT, 0000
KATHERINE A. HOWARD, 0000
BRAD J. KIESERMAN, 0000
RICHARD J. GAY, 0000
JOHN HALL, 0000
BRIAN C. FINNEY, 0000
LYNN S. SLETTO, 0000
TRACEY COOPER, 0000
PATRICK S. REILLY, 0000
STEVEN D. WHITEHEAD, 0000
THOMAS D. TARRANTS, 0000
DEBORAH K. DARMINIO, 0000
JOHN H. WHITTEMORE, 0000
ANDREW B. CHENEY, 0000
KENNETH M. MOSER, 0000
JOSEPH P. MCANDREWS II, 0000
LINDSAY R. DEW, 0000
FRANK J. KULHAWICK, 0000
GERALD S. FRYE, 0000
KEVIN M. JONES, 0000
SHANE D. MONTOYA, 0000
CHRISTOPHER H. ZORMAN, 0000
JOHN J. DRISCOLL, 0000
CALEB B. PAGE, 0000
TAY S. VOYE, 0000
BRIAN M. MCCORMICK, 0000
BLAKE E. WELBORN, 0000
MICHAEL S. ZIDIK, 0000
RICHARD E. BATSON, 0000
THOMAS J. STUHLREYER, 0000
DERRICK T. MASTERS, 0000
RYAN K. GRIFFIN, 0000
NEVADA A. SMITH, 0000
CHARLES D. MILLER, 0000
KAREN R. GROSS, 0000
LAWRENCE K. ELLIS, 0000
MICHAEL M. BALDING, 0000
NEIL A. WILSON, 0000
THOMAS S. MORKAN, 0000
MICHAEL J. PUTLOCK, 0000
KIMBER L. BANNAN, 0000
JEFFREY S. SMITH, 0000

To be lieutenant (junior grade)

ANNA A. STEWART, 0000
HOLLY L. BROWN, 0000
CHRISTOPHER T. WOODLE, 0000
JONATHAN S. SPANER, 0000
HEATHER M. KOSTECKI, 0000
CHARLES V. DARR IV, 0000
JAMES E. DUNNE, JR., 0000
CHRISTOPHER S. WEBB, 0000
PHILIP R. PRATHER, 0000
JAVIER A. DELGADO, 0000
DEREK M. DOSTIE, 0000
TIMOTHY J. WHALEN, 0000
STEVEN B. LOWE, 0000
WARREN W. WEEDON, 0000
JEANNE A. REINCKE, 0000
MATTHEW L. SEEBALD, 0000
DWAYNE M. MORRIS, 0000
PAUL M. GILL, 0000
FRANK W. KLUCZNIK, 0000
WILLIAM T. JEFFRIES, 0000
WILLIAM B. MORGAN, 0000
WILLIAM G. LEDDY, JR., 0000
JAMES F. SHINN, 0000
RICHARD W. SINGLEY, 0000
ERNEST W. GILPIN, 0000
BESSIE V. HOWARD, 0000
JUSTIN H. WARD, 0000
DANILO L. SANTOS, JR., 0000
JOSEPH P. HUMBERT, 0000

ALLISON L. HILL, 0000
ROBERT L. DECOOPMAN, 0000
STEVEN P. SIMPSON, 0000
RICHARD J. SCHULTZ, 0000
STACIE L. FAIN, 0000
THOMAS S. MEYER, 0000
ALBERT F. ANTARAN, 0000
SHALAKO M. BRADLEY, 0000
BRADLEY P. HOMAN, 0000
GEORGE E. KOVATCH, 0000
DAVID R. VALADEZ III, 0000
CARISSA S. CONNER, 0000
MITCHELL N. POORE, 0000
LINDA A. STURGIS, 0000
ERIC J. DOUCETTE, 0000
ADRIAN L. WEST, 0000
TRAVIS L. CARTER, 0000
ULYSSES S. MULLINS, 0000
KRISTI M. LUTTRELL, 0000
DWIGHT E. COLLINS, 0000
KEVIN L. IVEY, 0000
JAMES D. HALL, JR., 0000
OTILIO RAMOS, JR., 0000
JOHN F. BUCKLEY, 0000
MARK C. HICKMAN, 0000
MARTIN G. SARCH, 0000
SUSAN POLIZZOTTO, 0000
JULIA DIAZREX, 0000
DEREK A. DORAZIO, 0000
ROSS L. SARGENT, 0000
WILLIAM M. KELLEHER, 0000
STEPHEN J. ALVAREZ, 0000
AMY E. KOVAC, 0000
MICHAEL ANTONELLIS, 0000
FRED MEADOWS, 0000
THOMAS M. EMERICK, 0000
ALLEN V. BALOUGH, 0000
JACQUELINE M. TWOMEY, 0000
BRIAN P. KEFFER, 0000
CALEB B. HALSTEAD, 0000
OWEN L. GIBBONS III, 0000
CHRISTOPHER J. BUTTON, 0000
ANDREW W. ERIKS, 0000
KELLY M. LARSON, 0000
MARTIN L. SMITH, 0000
STEVEN A. WHEELER, 0000
JERRY W. DAVENPOST, 0000
JOHN L. HARTLINE, 0000
TODD R. LIGHTLE, 0000
JEFFREY S. HARRY, 0000
JUAN MERCADO, 0000
DAVID K. SMITH, 0000
TROY D. LANICH, 0000
SAMUEL D. FORBES, 0000
JOHN L. PRIEBE III, 0000
BRENDEN J. KETTNER, 0000
RICHARD W. HANCOCK, JR., 0000
RUSSELL S. SLOANE, 0000
DAVID D. GEFELL, 0000
YURI V. GRAVES, 0000
ANN S. GILLEN, 0000
KARRIE C. TREBBE, 00003
LUCINDA CUNNINGHAM, 0000
ANDREA D. CHAMPAGNIE, 0000
JOHN V. REINERT, 0000
ROBERT B. VILLACRES, 0000
CAROL M. MCALLISTER, 0000
KEITH O. PELLETIER, 0000