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Senate

(Legislative day of Monday, June 19, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by Rabbi George Holland. He is a guest of Senator FAIRCLOTH.

PRAYER

Rabbi George Holland, Beth Hallell Synagogue, Wilmington, NC, offered the following prayer:

God of Abraham, Isaac, and Jacob, we bless Your holy name this day, You who gives salvation to nations, and strength to governments. We thank You for blessing the United States of America and all of her people. Instill in all of us a spirit of love and forgiveness in order to come together as one nation, working toward freedom for all mankind.

Master of all, we pray that You protect and guard our President, Bill Clinton, that You shield our President and all elected officials from any illness, injury, and influence. We beseech You to send Your wisdom, knowledge, and understanding daily to each of them as they guide our great Nation, and that Your angels guide, guard, and direct each elected individual, and those employed by them.

For it is in the name of the King of all kings that we pray. Amen.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. May I make inquiry of the Chair what the business is before the Senate?

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The PRESIDENT pro tempore. The clerk will report the pending business.

The assistant legislative clerk read as follows:

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

The Senate resumed consideration of the bill.

Mr. REID addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from Nevada.

AMENDMENT NO. 1427

(Purpose: To provide that the national maximum speed limit shall apply only to commercial motor vehicles)

Mr. REID. Mr. President, I send an amendment to the desk.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1427.

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

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

The amendment is as follows:

Beginning on page 26, strike line 14 and all that follows through page 28, line 9, and insert the following:

SEC. 115. LIMITATION OF NATIONAL MAXIMUM SPEED LIMIT TO CERTAIN COMMERCIAL MOTOR VEHICLES.

(a) IN GENERAL.—Section 154 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 154. National maximum speed limit for certain commercial motor vehicles";

(2) in subsection (a)—

(A) by inserting ", with respect to motor vehicles" before "(1)"; and

(B) in paragraph (4), by striking "motor vehicles using it" and inserting "vehicles driven or drawn by mechanical power manufactured primarily for use on public highways (except any vehicle operated exclusively on a rail or rails) using it";

(3) by striking subsection (b) and inserting the following:

"(b) MOTOR VEHICLE.—In this section, the term 'motor vehicle' has the meaning provided for 'commercial motor vehicle' in section 31301(4) of title 49, United States Code, except that the term does not include any vehicle operated exclusively on a rail or rails.";

(4) in the first sentence of subsection (e), by striking "all vehicles" and inserting "all motor vehicles"; and

(5) by redesignating subsection (i) as subsection (f).

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 154 and inserting the following:

"154. National maximum speed limit for certain commercial motor vehicles.".

(2) Section 153(i)(2) of title 23, United States Code, is amended to read as follows:

"(2) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.".

(3) Section 157(d) of title 23, United States Code, is amended by striking "154(f) or".

(4) Section 410(i)(3) of title 23, United States Code, is amended to read as follows:

"(3) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.".

The PRESIDING OFFICER. The Senator is recognized.

Mr. REID. Mr. President, last weekend, I returned to the State of Nevada to speak at two high school graduations in rural Nevada. One of the high schools is about 80 miles from Reno, a place called Yerington in Lyon County. I spoke there at 10 o'clock in the morning and then that evening proceeded to Lovelock, NV, in Pershing County, which is about 90 miles from Reno.

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

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I traveled to Yerington by automobile and traveled to Lovelock by automobile from Yerington and then back to Reno. It was while I was traveling from Lovelock to Reno that evening that I decided that it was appropriate to offer the amendment which I have just offered.

I was on an interstate traveling at 65 miles an hour, and there were a number of occasions when trucks passed the car in which I was a passenger. There were other occasions during that day, certainly fixed in my mind that night, when we had had difficulty with trucks in many different ways—their loads moving as they proceeded up the roadway, as we tried to pass them on occasion.

Mr. President, as those of us who live in rural America, who spend time in rural America, know, trucks travel at great speeds. It is not infrequent that a truck will pass a car doing the speed limit. We know that it was necessary through Government regulation that there had to be a ban placed on the ability of trucks to determine if there were law enforcement officers in the vicinity with radar to see what their speed was. They all traveled with radar detectors, and that had to be outlawed because trucks drove so fast. There have been a number of programs on national television of how trucks travel, how the drivers are tired, how they have now, with deregulation, a significant number of miles to make, they have loads to pick up, they have loads to deliver.

This amendment is about safety on the highways. That is why, Mr. President, in newspapers all over the country, and certainly illustrated in yesterday's USA Today, the question is asked: ''Why are the Nation's highways getting deadlier?'' There are a lot of answers to questions like that asked in yesterday's USA Today.

One reason is truck traffic. If a passenger vehicle is in an accident with a truck and there are fatalities involved, there is a 98 percent chance that the passenger in the passenger vehicle is going to lose. Trucks win almost all the time. Almost 100 percent of the time trucks win and the passengers in the cars are killed and the trucks can drive off. Those of us who spend time in Congress are forced to read newspapers from here, we listen to the news here and we know the beltway around the Nation's Capital is deadly. Why? It is deadly because of trucks. I dread my family being on the beltway around Washington because of the trucks—they change lanes, they go fast. It is very, very difficult to feel safe when these trucks are barreling down the road trying to meet deadlines and carrying huge loads.

The amendment I have proposed is to provide that the national speed limit apply only to commercial motor vehicles. What we did in committee—I am a member of the Environment and Public Works Committee—is report a bill to the Senate which, in effect, did away with the speed limit. The reasoning was that States are better able to set speed limits, and I agree with that; that with passenger vehicles, a State like Nevada or a State like Colorado is better able to determine what the speed limits should be. Should there be a speed limit around Las Vegas that is one speed and a speed limit around Winnemucca that is another speed? The question is obviously yes. There should be some discretion left to State and local governments to set speed limits, but as relates to commercial vehicles, we should have a national speed limit. There is no question about that. Most of the commercial vehicles, of course, travel in interstate commerce.

Specifically, this amendment takes issue with the large commercial trucks which travel around our Nation's highways. Why is it critical to maintain a speed limit for this small proportion of vehicles? The reason is because one out of every eight fatalities on our roads today is the result of a collision involving a large truck, a commercial vehicle. In fact, tractor-trailer trucks are involved in more fatal crashes per unit of travel than passenger vehicles. In fact, Mr. President, about 60 percent more passenger vehicles are involved at about 2.5 per 100 million miles. Trucks, commercial vehicles that this amendment applies to, are almost 4. That is about a 60 percent difference. But what is even more striking is the fact that, as I have indicated, a little less than 2 percent of the people who are driving in a passenger car, who are involved in an accident with a truck—whether there are fatalities involved—survive, whereas trucks almost always remain.

Getting into an accident with a large truck is a hazard to a smaller vehicle. This means that the lives of us, our spouses, children and friends, are at risk when on the roads with these large commercial vehicles. It is interesting to note that most of the deaths occur during the daytime. I wondered why that is. Well, the reason is that there are more trucks on the road and certainly more passenger cars on the road. These trucks have places to go, they have time limits to meet, they have loads to pick up and loads to deliver. They are there on the road because they have some place to go and they want to be there as quickly as possible. That is how they make money. We need to set a standardized speed limit for these trucks.

As I indicated in my trip to rural Nevada last week, when I realized that we were doing the wrong thing by having a lifting of the speed limit for all vehicles, most of us have had the same experience of sharing the road with large trucks. They are a fact of life on the highways, and we all recognize that. But many of us have also had the unnerving experience of sharing the road with trucks that either tailgate—we have all had that—and you have to go faster because if you do not, you have the feeling that truck is going to run right over you. We have had the other experience of trucks barreling around us. The road seems too small, too narrow for these large tractor trailers and my little car. And these trucks seem to go too fast. There is good reason for us to be frightened by these unsafe practices. Speed not only increases the likelihood of crashing, of an accident, but also the severity of the crashes. Common sense dictates that the trucks are going to win these battles. Science indicates that trucks always win these battles.

Crash severity increases proportionately with speed. An impact of 35 miles an hour is a third more violent than one at 30 miles an hour. Increasing the energy which must be dissipated in a crash increases the likelihood of severe injury or death.

Mr. President, research has shown that vehicles are more likely to be traveling at higher speeds—that is, more than 65 miles an hour in States which have the 65 miles an hour speed limit. Many studies show that if you have a speed limit of 55, trucks will exceed that by at least 5 miles an hour. If you have a speed limit at 65, they will exceed it by at least 5 miles an hour. So if you have an unlimited speed limit or one of 70 or 75, trucks are going to be going faster. The scientific evidence is that these large trucks—and certainly a car also—but the faster these large trucks go, the more difficulty they have avoiding an accident or the more probability they have of causing an accident. Passenger cars stop more quickly than do trucks.

There is clear evidence that the proportions of vehicles traveling at high speeds are substantially lower in areas where the speed limit is 55. As a result, where there are more cars with increased speeds, there are more deaths. Studies show that States which raised speed limits to 65 miles an hour lose an additional 400 lives annually. So it is of utmost importance to preserve a standardized speed limit for these large trucks. As I have indicated, basic science, and specifically basic physics, tells us that the force of large trucks is already much larger than that of other motor vehicles. And increased speed only escalates the force with which a truck could impact another vehicle or pedestrian.

Also, large trucks have longer braking distances, as I have indicated, than cars. So a lower traveling speed for large trucks equalizes the stopping distances of trucks and cars. Some have asked, not very heartfully, Why do we need a different speed for trucks than cars. There are a number of reasons. One really apparent reason is that trucks take a significantly longer distance to brake, to slow down and to stop than do cars. That is one reason to have different speed limits.

In emergency situations, a shorter braking distance is an imperative to avoidance of impact. Speed limits do have an influence on the driving speeds of these trucks, as I have indicated.

Studies have found that the percentage of trucks traveling over 70 miles an hour is at least twice—some studies show at lease six times—larger in States with a 65-mile-an-hour speed limit as in States with 55-mile-an-hour speed limits, the faster the speed limit, the more tendency there is for trucks to drive even faster. The speed of large trucks is truly a national concern. Most of these large commercial vehicles are involved in interstate travel, often passing through numerous States.

When I was a kid—as I am sure many others did—I looked at all the different license plates on the trucks. Some trucks have 10 or 12 license plates on one truck. Almost all of them have at least four. So this is certainly a problem of interstate travel. By maintaining a Federal limit, we will promote uniform truck operations from State to State and there will be more predictable truck behavior for the drivers of passenger vehicles.

From past incidents involving the weaving or tailgating of trucks, we all know how uniformity and predictability means greater peace of mind for all drivers on the highway.

Mr. President, when I came back from Lovelock and indicated to my staff I was going to offer this amendment, my legislative director said, ''I was almost killed by a truck when I was in college.'' He was in a small passenger car with some friends, and there was no alcohol in the car. They were driving safe and sound. In fact, they were run over by a truck. The truck was going too fast and did not see them. Almost everyone has a comparable experience, where a truck has either nearly killed them or, in effect, they or some member of their family has been involved in an accident with a truck. The really tragic part of this is that most people who are in an accident with trucks, fortunately, live to regret it. Passenger vehicles simply do not do well against a truck. There has been a positive trend in recent years in fatalities, generally, and in truck-related fatalities and injuries.

This amendment is to maintain commercial trucking within the maximum speed limit. Why? Because it is essential in this positive trend. When we have programs and regulations with positive results, we should not retreat.

Mr. President, there are all kinds of statistics. We have one out of the New York Times. In this article, written by Jim McNamara, the fatal accident rate remains steady. Data show a rise in accidents and miles for all vehicles. Specifically, this relates to trucks. Accidents involving large trucks in 1993 was 32,000 people injured, and a significant number of others were killed. Trucks were involved in 4,320 fatal crashes in 1993, up by about 300 in 1992. So, specifically 98. Those accidents killed a total of 4,849 people, up from 4,462 the year before. Truck occupants accounted for 610 of these fatalities. So in this one year, the people in the trucks did not do as well as they had in previous years.

There are questions that people ask. If the trucking industry has to abide by a speed limit, why not apply it to everybody? Well, again, let me answer that question, Mr. President. Trucks provide a unique dimension on the roadways. Their size is both intimidating to passenger vehicles and a hindrance to one's view.

Additionally, by going faster than the established speed limit, the chance of accidents increases because of the weight and size of the trucks and the need for slowing, stopping, and even space.

The next question that is commonly asked—there actually appears to be a trend in truck-related fatalities, positive in recent years—Why do we need to keep them under the speed limit?

The whole point, and I just made it a minute ago, Mr. President, is there is a positive trend as the industry has abided by law. Hence, we should not repeal that which has been doing so well.

I do, Mr. President, indicate that there are some instances where the trend is not favorable. In areas that are more heavily populated, truck-related accidents and deaths are increasing.

The next question that is commonly asked: Why do we need the Federal Government to still be involved? The States are aware of the towns, villages and cities, as are most passenger vehicles who travel on roads in the States. Most of the travel in any State is not interstate, it is intrastate. That is not the way it is with truck traffic. The interstate nature of the commercial trucking and bus industry is inherently interstate. If ever there was a matter of interstate commerce, it certainly would be trucks.

Mr. President, again, why should trucks have a lower speed limit than other vehicles? The Insurance Institute for Highway Safety certainly believes that that is the case. Large trucks require much longer breaking distances than cars to stop. Lower speed limits for trucks make heavy vehicle stopping distances closer to those of lighter vehicles. Slower truck speeds also allow automobile drivers to pass trucks more easily. Crashes involving large trucks not only can cause massive traffic tieups in congested areas, but put other road users at great risk.

Over 98 percent of the people killed in two-vehicle crashes involving a passenger vehicle and a large truck are occupants, of course, of the passenger vehicle. The Insurance Institute for Highway Safety studies have shown that lower speed limits for trucks on 65-mile-an-hour highways lower the proportion of travelers faster than 70 miles an hour without increasing variation among vehicle speeds.

In one study, trucks exceeded the speed limit in Ohio about 4 percent of the time; in other studies, for example, in Arizona, 19 percent; in Iowa, 9 percent. So, twice as many trucks exceeded the speed limit in those States. It is important to allow passenger vehicles to have some semblance of comparability with these trucks, to slow down the trucks.

As I have indicated earlier, Mr. President, almost 5,000 people died in large truck crashes in 1993. Large trucks accounted—this is interesting—for 3 percent of the registered vehicles, 7 percent of vehicle miles traveled in the last statistics we had in 1990, but they were involved in over 11 percent of all 1990 crashes.

We start with 3 percent of the vehicles, and you wind up with 7 percent of the miles traveled, but you get up to over 11 percent of the fatal crashes.

We have to be aware that trucks are a problem. The faster trucks go, the bigger the problem. It certainly is not unreasonable, on an interstate highway system, to have a uniform speed for trucks. We do not need it for cars, maybe, passenger cars—and I did not oppose that in the committee.

I think the State of Nevada is an example that States should have the ability to set their own speed limits for passenger cars. I do believe we should have a uniform speed limit for trucks, commercial vehicles.

A risk of a large truck crash, of course, is higher at night than during the day. More crash deaths occur, as I have indicated, between 6 a.m. and 6 p.m. for obvious reasons. There are significantly more passenger cars on the road at that time, and trucks in heavy traffic cause a lot of problems.

It is also interesting, Mr. President, more large truck crash deaths occur on weekdays than on weekends; again, because of the heavy traffic from passenger vehicles.

I repeat, over 98 percent of the people killed in two-vehicle crashes involving a passenger vehicle and a large truck were occupants of the passenger vehicles. Passenger vehicles do not do well when they get in an accident with a truck. Common sense indicates that is the case. And science indicates that is certainly the case. Tractor trailers had a higher fatal crash involvement rate of about 60 percent more than did passenger vehicles.

Mr. President, 24 percent of large truck deaths occur on freeways. The rest are strewn around in other roadways throughout the United States. One of the things we are doing in this highway bill is designating other roadways so they can get Federal funds. There are a lot of important travelways throughout the United States that are not part of our interstate freeway system. That is one of the things this bill will do.

Tractor trailers studied on toll roads—and we have not done any good work on that in almost 10 years—had higher per mile crash rates than passenger vehicles. That is an understatement, Mr. President; 69 percent higher in New Jersey, 23 percent higher in Kansas, and 34 percent higher in Florida.

We know one reason that this provision of the law that we are going to be

debating here this morning—that is, dealing with doing away with the speed limit for passenger vehicles—the reason that came about is that it is a States right issue. It is a States right argument. The States do know best.

No such issue exists with relation to trucks and interstate buses. That is what we are dealing with here. These trucks, these commercial vehicles, Mr. President, should have some national standard by which the speed limits are controlled.

A loaded tractor trailer takes as much as 42 percent farther than a car to stop when they are going 60 miles an hour. That is a significant figure. Rounding it off, it takes almost 50 percent longer for a truck to stop than a car when driving 60 miles an hour. Remember what we are trying to stop—a huge vehicle with those huge tires, and the heavy loads that they have.

We have also learned that this distance is the difference between having an accident and not having an accident. By slowing these trucks down, we are going to have less fatalities.

Driver fatigue—Mr. President, we do not have people who are super men and women driving trucks, no more than we have super men and women driving passenger vehicles. Those driving passenger vehicles get tired driving a car. People also get tired driving a truck. These people do it professionally, but that does not mean they do not get tired. Driver fatigue is something that is available to all. It is nondiscriminatory. That is one of the things we have to take into consideration.

Alcohol and drugs. Truck drivers also abuse alcohol. We have talked about radar detectors.

I repeat, large trucks accounted for 3 percent of registered vehicles, 7 percent of miles traveled, and they were involved in over 11 percent of all fatal crashes. That is an indication that we should do something about these trucks barreling down the road.

Do large trucks pose a hazard on the road? The answer is yes. Almost 5,000 people die each year in crashes involving large trucks. Most of the people who die, again, I indicate, over 98 percent of the people who die in these accidents, are not in the trucks, but are in the cars. They are sharing the road with the trucks. Large trucks, 3 percent of the registrations, 7 percent of the miles traveled, but over 11 percent of the fatal crashes.

I have indicated, Mr. President, we have done some things to try to slow trucks down. Radar detector use now is banned in commercial trucks involved in interstate commerce. The one problem we do have with that is the Federal Government is not enforcing that. It is left up to the States, and the States, most States, frankly, have not done a very good job enforcing that and a large number of truck drivers still use the radar detectors.

As I indicated, for 42 percent of the drivers of large trucks involved in fatal crashes in 1993, police reported one or more errors or other factors related to the driver's behavior associated with the crash. So truck crashes are not caused by passenger vehicles. For 42 percent of them, when investigated by police, it is found there are errors related to the truck driver's behavior associated with the crash. The factors most often noted in multiple vehicle crashes were failure to keep in lane, failure to yield right-of-way, and driving too fast for conditions or exceeding the speed limit. This is what they have found has been the problem with truck drivers.

I think it is important to note that most truck drivers drive safe, sound. But the fact of the matter is they have a tremendous responsibility. They are driving these huge pieces of equipment. I think it is important that we give the other driving public the recognition that trucks should travel no faster than a national speed limit.

So this amendment, I repeat, will simply provide that the national speed limit apply only to commercial motor vehicles. I think this is reasonable. I think it is fair, especially when you indicate, as we have seen in the USA Today, yesterday, ''Why are the Nation's highways getting deadlier?'' There are a lot of reasons they are getting deadlier, but we should not contribute to that by allowing trucks to travel at unrestricted speeds throughout the United States.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like to ask the distinguished sponsor of this amendment if he defines trucks? Is it by weight?

Mr. REID. Mr. President, I will give the legal definition out of the United States Code; simply out of the United States Code.

Mr. CHAFEE. So the term ''truck'' is a term of art, a special term?

Mr. REID. It is a specific term. It does not apply to pickups. It applies to commercial vehicles and buses. I appreciate the chairman of the committee bringing that to the attention of the Senator.

Mr. President, I ask unanimous consent to have printed in the RECORD a definition out of the United States Code, what this means.

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

§ 2503. Definitions

For purposes of this title, the term—

(1) ''commercial motor vehicle'' means any self-propelled or towed vehicle used on highways in interstate commerce to transport passengers or property—

(A) if such vehicle has a gross vehicle weight rating of 10,001 or more pounds;

(B) if such vehicle is designed to transport more than 15 passengers, including the driver; or

(C) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801–1812), and are transported in a quantity requiring placarding under regulations issued by the Secretary under such Act [49 USCS Appx §§ 1801–1812];

Mr. CHAFEE. That will be helpful, because I am sure there will be concerns about whether we are talking about pickups and so forth.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. 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. REID. Mr. President, I ask for the yeas and nays on the Reid amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. 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. LAUTENBERG. Mr. President, I rise to offer my support to the amendment presented by Senator REID to maintain the current Federal maximum speed limit requirement for trucks. In fact, I support the current national speed limit along with the distinguished occupant of the President's chair for both cars and trucks. It is a proven fact that the law will save both lives and money. Unfortunately, the bill before us eliminates Federal speed limits altogether, and I recognize that the total removal of that provision, the abolition of speed limits, is not possible in this Congress though I hope that the amendment that the Senator from Nevada is offering will pass. And I hope that the amendment that I will be offering soon with the distinguished Senator from Ohio also will get favorable attention.

But at the moment, in considering just the speed limit for trucks, boy, I could not be more emphatic in my belief that we do our country a service if we maintain speed limits on trucks. As a matter of fact, there is not anybody, I do not care how barren your State is of population, I do not care how wide the roads are, who has not been upset at a point in his time or in his or her day when a big behemoth comes rolling down the highway, either gets behind you, wants you to move over or pulls up alongside you at what could be described at almost a totally death-defying speed. It is so surprising when it happens. It is unpleasant.

I authored a piece of legislation some years ago and have been involved in

safety issues, along with the distinguished chairman of the Environment and Public Works Committee, Senator CHAFEE, and with Senator BAUCUS, the ranking member of the Environment and Public Works Committee, for many years. I was the author on the Senate side of the bill to raise the drinking age to 21. And whether they know it or not, 10,000 families were spared having to sit and grieve and mourn over the loss of a child because they did not experience it as a result of raising the drinking age to 21. Ten thousand kids were spared from dying on the highways in the last 10 years.

Mr. President, I also was a principal author of the legislation to ban radar detectors in trucks. I saw no earthly reason why we would condone the use of a device to thwart the law. What is the difference between saying you can use cop-killer bullets when in fact they ought to be outlawed, banned wherever the possibility occurs that they could be used because we want to protect people? We ought to make sure that trucks do not exceed proper speed limits on the highways over which they travel.

As a matter of fact, I learned just this morning that in Europe and Australia the crash rates for trucks on some of the roads are far in excess of ours. By the way, the countries in Europe are long known for their excellent highways, high-speed driving, lots of fun tearing down the autobahn at 100-plus miles an hour. It used to be fair game until there were too many deaths, too many injuries for people to stand. So they said enough of that, and they imposed speed limits. They still have roads that do not have speed limits on them, and they are now considering putting speed limits on those roads as well and they do limit truck speeds in most of these countries.

So we have an opportunity here to correct a wrong. I think what we ought to do, and we traditionally do as we consider legislation, is offer amendments to correct what each or any of us thinks is wrong. In this case, I think there is a terrible wrong in lifting the speed limit caps off of our roads.

Senator REID is trying to take care of part of that with his amendment today. And I hope that when the Senator from Ohio and I offer our amendment later on, that we will get the support of the Senate. The evidence is clear. Speed kills. When trucks are brought into the equation, speed is even more deadly.

In 1992, over 4,400 men, women, and children were killed in truck crashes. And every year over 100,000 Americans are injured, many very seriously, in accidents involving trucks. That is true although trucks make up only 3 percent of the vehicles on our Nation's roads and highways and 12 percent of the traffic on interstates. They are, however, involved in 38 percent of motorist fatalities in crashes involving a truck or more than one vehicle.

When large trucks weighing more than 10,000 pounds—and that is not a lot, Mr. President—collide with passenger vehicles, it is the people in the passenger vehicles who are killed most often. Only 2 percent of the deaths in such collisions during 1992—I repeat this even though the Senator from Nevada said it earlier because I think it is worth the emphasis—only 2 percent of the deaths in collisions between a truck and another vehicle were the truck occupants. When it came to the outcome, 2 percent of those killed were occupants of the trucks. The other 98 percent were occupants of the passenger vehicles that collided with the trucks.

In 1947, a truck was 35 feet long and it weighed 40,000 pounds. By 1990, the normal truck on our highways was 70 feet long and weighed 80,000 pounds. And during that same period, cars were getting smaller and continued to retain a much more compact size, indeed.

The general driving public does not like to share the roads with the trucks because it scares them. It scares them because trucks move so rapidly and take so much of the room.

The fact is that trucks play a vital role in our economy. They move vast amounts of goods throughout our country, and we do not want to ban trucks from our highways, but we can and should take responsibility to ensure that trucks are operated in the safest manner possible.

Now, Senator Reid's amendment takes responsibility for public safety as it relates to trucks, and by requiring trucks to follow the current speed limit requirements we are decreasing the potential frequency and severity of truck and car accidents.

According to the National Highway Traffic Safety Administration, more commonly known as NHTSA, the chances of death or serious injury doubles for every 10 miles per hour that a vehicle travels over 50. Why? Because speed increases the distance the truck travels before a driver can react in an emergency situation. Speed also increases the force of the energy released in an accident.

Mr. CHAFEE. Mr. President, I wonder if the distinguished Senator from New Jersey would yield for a question.

Mr. LAUTENBERG. I would be glad to.

Mr. CHAFEE. It is my understanding that the Senator has an amendment dealing with the total speed limit.

Mr. LAUTENBERG. Right, for all vehicles.

Mr. CHAFEE. For all vehicles. It would be helpful if the Senator could bring that up now, if possible, or very soon when he has finished his discussion on the Reid amendment. What we could do is set aside the Reid amendment and go to the amendment of the Senator from New Jersey. We are trying to get these stacked up, if we can, and then the objective would be to have several votes after 12:15.

Mr. LAUTENBERG. I would like to cooperate. I do not mind speeding this portion along.

Mr. CHAFEE. Fine.

Mr. LAUTENBERG. I thank the Senator from Rhode Island.

As I was saying, the increased force and energy causes more severe injuries to the drivers and occupants of cars. Now, if professional truck drivers and the trucking industry are going to be allowed to use the public infrastructure, then they should be held to the highest public safety standards.

So I would encourage my colleagues to support the Reid amendment. I hope that it will be successful. I think that its value can be expressed in the number of lives saved, costs reduced, and a more efficient and constructive use of our highway facilities.

I commend the Senator from Nevada for bringing this amendment forward and hope that when the Lautenberg-DeWine amendment comes to the floor, he will be equally enthusiastic about that as I am about his. But we will have to wait and see.

I yield the floor.

Mr. REID. Mr. President, while the Senator from New Jersey is in the Chamber, I wish to extend my appreciation to the Senator for supporting this amendment but also to establish in the RECORD the fact that this Senator, the ranking member of the Transportation Appropriations Subcommittee and a member of the Environment and Public Works Committee, has worked for many years on matters relating to health and safety of the American consumers as it relates to transportation.

I flew across the country yesterday with my wife, and coincidentally reflected on that airplane how much more pleasant the flight was as a result of the fact that we did not have people smoking.

For many, many years while serving in Congress, I inhaled secondhand smoke every time I took an airplane ride. It was as a result of the statements made by stewards and stewardesses on the airplanes, in addition to passengers complaining, that the Senator from New Jersey led the fight—and it was a fight against principally the tobacco industry—to make travel in airplanes certainly more pleasant as a result of not smoking.

I sit next to the Senator from New Jersey on the Environment and Public Works Committee and have for 9 years and have participated in his efforts to make our highways safer. I also am now, for the first time since being in the Senate, a member of the Subcommittee on Transportation Appropriations, where the Senator has worked for many years appropriating money for highways throughout the United States. So I appreciate the support of the Senator from New Jersey on this amendment.

Mr. President, I would like also to state what is in the United States Code defined as a commercial motor vehicle.

It is defined as any vehicle with a gross vehicle weight of 26,001 pounds, or greater than 16 passengers, or containing hazardous materials in certain quantities or any explosives. And we will submit, as I indicated to the chairman of the committee and the manager of this bill, to be made part of the RECORD that definition of the United States Code which I will have momentarily.

I certainly have no objection to having my amendment set aside so that the Senate can go on to other matters to move this very important piece of legislation along.

Mrs. FEINSTEIN. Mr. President, I rise today in strong support of the amendment offered by my colleague from Nevada to keep the current speed limit in place as it relates to trucks.

According to the California Highway Patrol, the State of California has seen a steady reduction in the number of accidents, injuries, and fatalities relating to accidents involving trucks since 1989.

In 1989, 647 people lost their lives and 17,703 people were injured in California as a result of 12,159 truck-related accidents.

By 1994, 451 people were killed and 13,512 injured in California as a result of 9,225 truck-related accidents.

While these figures are nowhere near where we want to be, they do demonstrate that a commitment to truck safety: increased oversight on driver training and hours of operation; regulations on the size and weight of the vehicles; and federally mandatory speed limits. All have significant impacts on the increased safety on America's highways.

In one day this last April, the CHP pulled over 64 big rigs and issued almost 200 violations for everything from bad brakes to violating air pollution rules. That day, police ordered 34 vehicles off the road as a part of a crackdown on the most heavily used truck routes in Los Angeles County.

Now is not the time to begin to turn away from our commitment to make America's roadways safe and I urge my colleagues to support the amendment offered by the Senator from Nevada.

Mr. REID. Mr. President, unless the manager of the bill has something, I would suggest the absence of a quorum.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I ask unanimous consent that we set aside the Reid amendment and that we vote on that at 12:15.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CHAFEE. Furthermore, Mr. President, I wish to alert people that we are striving to have another amendment voted on immediately following the Reid amendment, and that would occur at 12:30. To do that, we would set aside the order for the luncheons, which would start at 12:30, under the order we have in place.

Also, Mr. President, I ask unanimous consent there be no second-degree amendments to the Reid amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CHAFEE. So it would be my hope now, Mr. President, that the Senator from New Jersey would be prepared to go forward with his amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. 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. 1428

(Purpose: To require States to post maximum speed limits on public highways in accordance with certain highway designations and descriptions)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk on behalf of myself and Senator DEWINE 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 and Mr. DEWINE, proposes an amendment numbered 1428.

Mr. LAUTENBERG. 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:

Beginning on page 26, strike line 14 and all that follows through page 28, line 9, and insert the following:

SEC. 115. POSTING OF MAXIMUM SPEED LIMITS.

(a) IN GENERAL.—Section 154 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 154. Posting of speed limits";

(2) in subsection (a)—

(A) in the first sentence—

(i) by inserting "failed to post" before "(1)";

(ii) by striking "in excess of" each place it appears and inserting "of not more than"; and

(iii) in paragraph (4), by striking "not"; and

(B) in the second sentence, by striking "established" and inserting "posted";

(3) by striking subsection (e); and

(4) by redesignating subsection (i) as subsection (e).

(b) CERTIFICATION.—The first sentence of section 141(a) of title 23, United States Code, is amended by striking "enforcing" and inserting "posting".

(c) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 154 and inserting the following:

"154. Posting of speed limits.".

(2) Section 157(d) of title 23, United States Code, is amended by striking "154(f) or".

Mr. LAUTENBERG. Mr. President, I yield to the manager of the bill, Senator CHAFEE.

Mr. CHAFEE. Mr. President, I ask unanimous consent that if the Reid amendment is agreed to, it be in order for Senator LAUTENBERG to modify his amendment to make technical conforming corrections to his amendment.

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

Mr. LAUTENBERG. Mr. President, before turning to the specifics of my amendment, I want to explain its relationship to the Reid amendment which is currently under consideration.

The Reid amendment is based on two principles:

First, acknowledging that higher rates of speed are dangerous; second, that the Federal Government has a right to regulate dangerous speeds.

If the Senate adopts the Reid amendment, it accepts those principles. The Reid amendment does not apply those principles universally; its application is restricted to trucks; it does not cover all vehicular traffic.

Mr. President, I would like to argue that the principles that are included in the Reid amendment apply to cars as well as trucks.

When a car travels at excessive speeds, it is as dangerous as a truck. When the Federal Government imposes speed limits on trucks, it can also impose similar limits on cars. The principles in the Reid amendment do not distinguish between types of vehicles; they apply to all such vehicles, trucks particularly in this case—all classes.

That, in essence, is what my amendment does. It applies the Reid principle to cars as well as to trucks.

I would like to provide some background. As my colleagues know, the current Federal speed limit law establishes maximum speed limits at 55 miles per hour or 65 miles per hour depending on the road and the road's location. Current law also requires that States certify a certain level of compliance with posted speed limits. If they do not, States are required to shift part of their construction funding to safety programs. They do not lose it, but they have to use those funds in other areas.

The committee bill abolishes those requirements. It allows States to post any speed limit they want and removes the penalty if States fail to endorse those limits.

Mr. President, I differ with the committee's action, which I think was wrong. I think it will directly contribute to death and injury for thousands of American citizens every year. It will cost our society billions of dollars in lost productivity and increased health care expenditures.

Now, looking at some facts, in 1974, the Federal Government established maximum speed limits. At that time, we were in the middle of an energy crisis and the issue was driven by the need to conserve fuel. We also found an unexpected additional benefit. Maximum speed limits reduced the number of people who died on our Nation's highways.

In fact, as a result of the 1974 law, highway fatalities dropped by almost

9,000, or 16 percent, while the miles traveled decreased by only 2 percent. This was the greatest single-year decrease in highway deaths since World War II.

A total repeal of Federal speed limit requirements will increase the number of Americans killed on our Nation's highways by some 4,750 each year. Mr. President, 4,750 people each year will die on our highways as a result of the increased speed on our roads. Those are not my numbers, Mr. President. Those are the numbers, the projections, of the National Highway Traffic Safety Administration.

I cannot imagine that 4,700 mothers, fathers, sons, daughters, brothers, sisters killed because they were allowed—some might say encouraged—to drive faster in order to save a few minutes, minutes that will cost them their lives.

If we do not want to look at the issue in human terms, how about from the budget perspective which so many want to adopt? One need not be reminded about the stringency of budget requirements around here these days.

It is estimated that the deaths and injuries caused by a total repeal of Federal speed limit restrictions will cost our country $15 billion in additional expense each year: the loss in productivity, taxes not paid and collected, and, of course, increased health care costs.

If that is not a high enough cost for one, add the $15 billion to the $24 billion that we already are losing from accidents caused by speeders. Now the total cost to American taxpayers will grow to $39 billion. That is more than the Federal Government spends on transportation each year—each year. That is on our highways, it is on our rail systems, on our aviation system. We spend more in repair and damage as a result of deaths due to speeding than we spend on our infrastructure each and every year. And the lives lost, all of the money spent, just to save a few minutes of travel time.

The point I want to make is that this is more than an issue of States rights or individual choice. This is an issue that affects everyone. We mourn for the dead, pay for the injured. We have a right and an obligation to do what we can, therefore, to minimize the loss and reduce the cost.

The American people seem to understand that very well. A recent poll conducted by advocates of highway and auto safety asked people if they favored or opposed allowing States to raise speed limits above 65 miles per hour on interstates and freeways. Only 31 percent of the total respondents favored raising current speed limit standards.

That same poll asked if the Federal Government should have a strong role in setting highway and auto safety standards, and over four out of five—close to 83 percent—said, yes, that the Federal Government—the Federal Government—should have a strong role in setting highway and auto safety standards.

Still, the committee adopted the language which strikes the limits even though a majority of the American people do not support this repeal.

Now, I realize that an amendment to restore current law will not prevail in the Senate. As a result, I sought a compromise.

This amendment recognizes the needs and the concerns of the traveling public. It is designed to address the States rights concerns which have been raised by some Members. It also recognizes the Federal Government's legitimate role and responsibility in not only building and maintaining roads but also in ensuring that those roads are safe.

Mr. President, our amendment would maintain the 55- and 65-mile-per-hour speed limits, but it would leave the issue of enforcement directly to the States. By allowing the States to have responsibility for enforcement, this amendment recognizes that States have their limited law enforcement capability and resources. I know that every day State law enforcement officers must determine how best to allocate these resources with the public's safety in mind.

Mr. President, I believe the Federal Government has a responsibility to protect its citizens. It is clear that repealing the Federal maximum speed limit will, most importantly, cost our citizens their lives. I believe this amendment strikes a balance that we can all live with.

That is why this amendment has the endorsement of the International Association of the Chiefs of Police. They say that there is value to maintaining speed limits on our roads. These are professionals, at the top of the ladder, chiefs of police. The law enforcement community does not want to see a repeal of Federal maximum speed limit requirements.

This amendment is also supported by the National Safety Council, the American Public Health Association, the American Trauma Society, Kemper National Insurance Companies, the American College of Emergency Physicians, State Farm Insurance Companies, GEICO, and the Advocates for Highway and Auto Safety. Additionally, we have the American Trucking Association supporting this amendment.

Mr. President, I ask unanimous consent letters of support from these organizations be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN TRUCKING ASSOCIATIONS, INC.,
Alexandria, VA, June 19, 1995.

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

DEAR SENATOR LAUTENBERG: We support your efforts to retain the 55 mph speed limit for cars and trucks.

The American Trucking Associations supported 55 mph when it was temporarily imposed in 1974 and later when the permanent 55 mph National Maximum Speed Limit was established in 1975.

We believe the 55 mph speed limit conserves fuel and results in less wear and tear on our equipment. But the most important reason the American Trucking Associations supports the 55 mph national speed limit is that we are convinced it saves lives.

We are concerned that safety would be reduced if a speed differential were created by raising the speed limit just for cars. This could increase the number of cars hitting the rear of slower moving trucks.

Again, we applaud your continuing efforts to keep the speed limit at 55 mph and stand ready to assist you in achieving that goal.

Sincerely,

THOMAS J. DONOHUE,
President and
Chief Executive Officer.

STATE FARM INSURANCE COS.,
Bloomington, IL, June 15, 1995.

Senator FRANK LAUTENBERG,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing to express the support of the State Farm Insurance Companies for your amendment to the National Highway System legislation, S. 440, which would restore the National Maximum Speed Limit Law. This is a public health and safety law that should be preserved.

The National Maximum Speed Limit, 23 U.S.C. §154, has saved tens of thousands of lives on our highways since 1974. Based on National Academy of Sciences' estimates, the national speed limit has saved between 40,000 and 85,000 lives in the past two decades.

The committee reported legislation eliminates the national speed limit. We should proceed with caution in this area, particularly on non-interstate primary and secondary roads which have much higher fatality rates than interstate highways. According to the National Highway Traffic Safety Administration (NHTSA), one-third of all fatal crashes are speed-related and one thousand people are killed every month in speed-related crashes. NHTSA projects that elimination of the national speed limit on non-rural interstates and non-interstate roads will increase deaths by 4,750 annually at a cost of $15 billion. It is important that we have some reasonable speed limits.

For these reasons, we support your efforts to retain the National Maximum Speed Limit law and to continue saving lives on our highways.

Sincerely,

HERMAN BRANDAU,
Associate General Counsel.

GEICO,
Washington, DC, June 15, 1995.

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

DEAR SENATOR LAUTENBERG: Because excessive speed is a leading cause of motor vehicle deaths and injuries, GEICO advocates maintaining the current law concerning the federal role in setting national speed limits. We believe that giving states the discretion to set any speed limits they want will result in increased deaths and injuries on our nation's highways.

GEICO is the sixth largest private passenger automobile insurance company in the nation, insuring over 3.3 million automobiles. Our assets total $4.8 billion and we have over 8,000 employees. As such we have a vested interest in pointing out the relationship between safety and automobile insurance.

Higher speeds mean more serious injuries and deaths in traffic crashes. From a humanitarian perspective alone, this is solid justification for setting national speed limits.

From a business perspective, more speed related crash injuries and deaths mean higher insurance claim costs. Higher claim costs result in higher premiums for our policyholders.

We would like to see the federal government maintain a role in highway safety. Given the reality of the political situation, and the likelihood that S. 440, the National Highway Systems bill, will generate extensive debate, we commend your efforts to restore the federal role in setting national speed limits. In addition, we urge you and your Senate colleagues to oppose the repeal of Section 153, the safety belt and motorcycle helmet incentive program.

JANICE S. GOLEC,
Director, Business and Government Relations.

ADVOCATES FOR HIGHWAY AND AUTO SAFETY
Washington, DC, June 14, 1995.

Senator FRANK LAUTENBERG,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing to express the support of Advocates for Highway and Auto Safety (Advocates) for your amendment to the National Highway System legislation, S. 440, which would restore the National Maximum Speed Limit Law. This is a public health and safety law that should be preserved.

The National Maximum Speed Limit, 23 U.S.C. §154, has saved tens of thousands of lives on our highways since 1974. The National Academy of Sciences estimated that the 55 mile per hour speed limit reduced fatality totals by two to four thousand each year. Even with higher speed limits on rural Interstates the national speed limit has saved between 40,000 and 85,000 lives in the past two decades.

As you know, at higher speeds drivers have less time in which to react properly and their vehicles need more distance in which to come to a stop. Since speed is still a factor in one-third of all highway crash fatalities, Advocates continues to support the need for a reasonable and safe speed limit.

President Eisenhower began the federal presence on highways by initiating the Interstate highway system. That federal involvement will continue and expand with the advent of the National Highway System. The U.S. highway system is no longer a loose collection of state and local roads, but a national network on which the entire country depends. It is folly, both in terms of safety and the national economy, to eliminate the federal role in regulating American highways.

For these reasons we support your efforts to retain the National Maximum Speed Limit law and to continue saving lives on our highways.

Sincerely yours,

JUDITH LEE STONE,
President.

NATIONAL SAFETY COUNCIL,
Washington, DC, July 14, 1995.

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

DEAR SENATOR LAUTENBERG: The National Safety Council is extremely concerned that S. 440, the National Highway System bill, contains a provision to repeal the national maximum speed limit law. We strongly support your amendment to restore the 55-mph speed limit.

Speed is a factor in a third of all highway crash fatalities. The National Highway Traffic Safety Administration estimates that repealing the national maximum speed limit would result in 4,750 additional lives lost each year in traffic crashes. It would also increase crash-related medical and other costs by billions of dollars a year.

Returning to the days when states could set their own speed limits would reverse years of progress and jeopardize the safety of all travellers. Experience shows that if speed limits are increased to 65 and beyond, large numbers of trucks and cars will jump to even higher speeds of 75, 80 and 85 mph.

In the interest of public safety, the National Safety Council appreciates and supports your efforts to preserve the national maximum speed limit.

Sincerely,

GERALD F. SCANNELL,
President.

AMERICAN PUBLIC HEALTH ASSOCIATION,
Washington, DC, June 14, 1995.

Senator FRANK LAUTENBERG,
Hart Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: The American Public Health Association supports the Lautenberg amendment which requires states to maintain current law on posting speed limits of 55 and 65 M.P.H. depending on the road and road's location, but provides a degree of flexibility in enforcement. APHA recognizes the unique role of the federal government in setting uniform standards for the roads that are largely financed with federal funds.

More importantly from our perspective, APHA also recognizes the responsibility of the federal government to protect its citizens. The following statistical information points out the essential need for this amendment:

One third of all traffic accidents are caused by excess speed.

Repeal of the national speed limit will increase the number of traffic fatalities by 4,750 deaths per year at a cost of $15 billion.

We appreciate your efforts and wish you the best of luck.

Sincerely,

FERNANDO M. TREVIÑO, PHD, MPH,
Executive Director.

AMERICAN TRAUMA SOCIETY,
Upper Marlboro, MD, June 13, 1995.

Senator FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: The American Trauma Society supports your efforts through your Amendment to S. 440 to have posting of maximum speed limits on public highways.

We believe that limiting speed on highways is essential for highway safety.

Sincerely yours,

HARRY TETER, Jr.,
Executive Director.

KEMPER NATIONAL INSURANCE COS.,
Washington, DC, June 14, 1995.

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

DEAR SENATOR LAUTENBERG: The Kemper National Insurance Companies supports the amendment you plan to offer on the Senate floor to the National Highway Systems legislation to prevent additional deaths and injuries on our nation's highways caused by excessive speed. Under your approach states would still post the 55 MPH or 65 MPH speed limit depending upon the type of highway but enforcement would be left to the states.

As an automobile insurer, Kemper is a long time proponent of highway safety. We saw deaths and injuries from automobile accidents decline when the speed limit was lowered to 55 MPH in the 1970s. Various studies have shown, including a recent GAO study for the Senate Commerce Committee, that speed is a big influence on risk of injury. The National Highway Traffic Administration, based on the increased deaths and economic costs which resulted from raising the speed limit to 65 MPH on rural interstates, estimates that if the national speed limit is repealed, deaths and injuries will increase by 4,750 deaths a year at a cost of $15 billion. Everyone helps pay the economic costs of these deaths and injuries through increased medical care costs, insurance costs, lost productivity and lost taxes.

A nationwide survey conducted this spring for the Advocates for Highway and Auto Safety found that people do support highway safety laws and 64.2% of Americans oppose states' increasing the speed limit to more than 65 MPH on rural interstates.

Sincerely,

MICHAEL F. DINEEN,
Vice President,
Federal Relations.

AMERICAN COLLEGE OF EMERGENCY PHYSICIANS,
Washington, DC, June 14, 1995.

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

DEAR SENATOR LAUTENBERG: I write on behalf of the over 17,700 members of the American College of Emergency Physicians (ACEP). I want to offer ACEP's endorsement of your proposed amendment to S. 440 regarding the national speed limit. I understand that your amendment will reverse the action taken by the Environment & Public Works Committee when they passed S. 440 and included a repeal of the speed limit. In addition, we strongly oppose any efforts to weaken Section 153—that section of ISTEA that deals with safety belt and motorcycle helmet use, and urge your opposition to any weakening language.

ACEP is a national medical specialty society, and is dedicated to improving the quality of emergency medical care through continuing education, research and public awareness. Emergency physicians are specialists trained to provide care to patients, including medical, surgical, and trauma services. Emergency physicians are the only medical specialists required by law to provide care to all who seek it, regardless of ability to pay. This role as ''front-line'' providers has positioned emergency physicians as guardians of quality, accessible health care for all populations. We have seen first hand in our emergency departments those who have been involved in vehicular accidents as a result of speeding, and the non-use of safety and motorcycle helmets.

Under the guise of promoting ''states' rights'' and opposing ''unfunded mandates,'' proponents of eliminating these encouragements to states to adopt safe and same highway laws are risking the lives of thousands of our fellow citizens. These laws save states and taxpayers billions of dollars a year. Specifically, it is estimated that these four safety programs together save over ten thousand lives and $19 billion taxpayer dollars every year. Repealing or weakening them will result in more deaths and injuries on our nation's roadways, and cost all of us billions of dollars annually in increased insurance and medical costs, higher costs for emergency services, lost productivity and tax revenue, and direct costs to the Federal government in terms of those unable to pay for emergency care.

Without continued Federal leadership in these critical areas of highway safety, we will see a return to inconsistent and less effective state laws. Inevitably, there will be greater loss of life and an increased financial

burden on our society. We applaud you, Senator, in your effort to restore a safe national speed limit. If we can be of any assistance to you in this process, please do not hesitate to call upon us.

Sincerely,

RICHARD V. AGHABABIAN,
President.

Mr. LAUTENBERG. Mr. President, I believe this is a reasonable and balanced amendment. All of us lose patience when we sit in traffic or leave late for an appointment and try to make up the time by just stepping on the gas a little bit more. But, if you know any family or in your own family have had a loss on a highway—whether it is from speeding or not the impact is the same at home, but when it is from speeding it is in many cases an avoidable death. And that is a tragedy beyond compare. We lose every year 40,000 people to highway fatalities—40,000 people. Something over 10,000 of those deaths are speed related on our highways.

To repeat, if we continue along the path we are on, the removal of speed limits for trucks and cars, it is estimated that we will have almost 5,000 more deaths a year occurring.

I know my colleagues, who see this as a States rights issue, do not, any more than I do, want to see people killed on our highways, people injured on our highways, or pay the expense for these accidents. But, nevertheless, this action is taken to remove constraints that we have in a lawful society, necessary to maintain our complex way of life. We are, after all—and I do not have to remind my colleagues here because it is part of their daily vocabulary—a nation founded as a nation of laws. That is what we say. We say we have laws so we can accommodate the needs of the majority of our citizens. Over 80 percent of our citizens said they want the Federal Government involved in auto and highway safety issues.

So, Mr. President, I hope in this dash for States rights we continue to focus not just on the States rights but on the individual rights that each of us has to protect our families, our children, our spouses, our brothers and sisters, and say the few minutes time gained is not worth a single life. I hope that is what the conclusion is going to be.

I yield the floor.

Mr. KERRY. Mr. President, I support the amendment offered by my colleague from Nevada, Senator REID, to exempt heavy trucks from the repeal of the national speed limit contained in S. 440. In other words, commercial vehicles will continue to be subject to a national speed limit. Given the havoc that one 18-wheeler or cement truck or other heavy vehicle can cause if its driver loses control or is involved in an accident, I believe this is necessary protection for the motoring public. I will vote for this amendment because it will have a real effect on people's lives. Also, and more importantly, it is enforceable. Should States choose to ignore it, penalties will be imposed.

For these same reasons I am unable to support the amendment by my dear friend from New Jersey, Senator LAUTENBERG, whose courageous leadership on this issue I have long respected and followed. His amendment would maintain a nationwide posted speed limit but give the States complete flexibility in enforcing the limits, without fear of suffering Federal funding penalties for failure to do so, as under current law. To me, this provision would be more shell than substance. Either our country should have a nationwide speed limit on interstates and Federal-aid highways that is enforceable, or we should not. What we definitely should not have is a hortatory nationwide speed limit, without teeth. I fear that will only lead to further disrespect for speed limits in particular and law in general, and we cannot afford such further erosion.

I am well aware of the relationship between speed limits and the number and cost of traffic fatalities and injuries to families and to our economy. I certainly believe speed limits make sense in terms of saving lives and the related health and lost productivity costs. Higher speeds also burn more fuel per mile and thereby create more pollution per passenger mile. But speed limits do not make sense if they are not taken seriously because they are not enforced. That is the practical effect of the Lautenberg amendment and why I am reluctantly compelled to oppose the Senator's amendment.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I wonder if the sponsor of the amendment would mind setting it aside just for a minute or so, while we dispose of some other business here?

Mr. LAUTENBERG. Not at all.

Mr. CHAFEE. Mr. President, I ask unanimous consent we set aside the Lautenberg amendment.

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

AMENDMENT NO. 1429

(Purpose: To express the sense of the Senate regarding the Federal-State funding relationship for transportation)

Mr. CHAFEE. Mr. President, I send an amendment to the desk on behalf of Senator MACK and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. MACK, proposes an amendment numbered 1429.

Mr. CHAFEE. 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:

SEC. . SENSE OF THE SENATE REGARDING THE FEDERAL-STATE FUNDING RELATIONSHIP FOR TRANSPORTATION.

Findings:

(1) the designation of high priority roads through the National Highway System is required by the Intermodal Surface Transportation Efficiency Act (ISTEA) and will ensure the continuation of funding which would otherwise be withheld from the states.

(2) The Budget Resolution supported the re-evaluation of all federal programs to determine which programs are more appropriately a responsibility of the States.

(3) debate on the appropriate role of the federal government in transportation will occur in the re-authorization of ISTEA.

Therefore, it is the Sense of the Senate that the designation of the NHS does not assume the continuation or the elimination of the current federal-state relationship nor preclude a re-evaluation of the federal-state relationship in transportation.

Mr. CHAFEE. Mr. President, this is an amendment that has been agreed to. It is a sense of the Senate. I improperly described it as an amendment—it is a sense-of-the-Senate resolution. It has been agreed to by both sides. I ask for its approval.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1429) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. CHAFEE. I thank the Chair and thank the distinguished Senator from New Jersey.

I ask we return back to the Lautenberg amendment.

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

AMENDMENT NO. 1428

Mr. LAUTENBERG. Mr. President, we have not sought the yeas and nays on the amendment. I take it, it is proper to register our interest in a rollcall vote? I ask the manager whether it will be in order? The Reid amendment, I understand, is going to be the first amendment voted on. Were the yeas and nays agreed to on that?

Mr. CHAFEE. Yes, the yeas and nays were agreed to on the Reid amendment.

Mr. LAUTENBERG. Mr. President, I ask for the yeas and nays on the Lautenberg amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I would like to speak for a few minutes on the Lautenberg amendment.

Mr. President, all of us in our country want to have safe highways. I do not think there is anybody who even entertains the thought, either in the U.S. Congress or in the States, whoever, of asking for legislation which would have the effect of making our highways less safe. All of us listen to the statistics cited by the Senator from New Jersey about how fatalities on our highways have some relation to speed. There is no doubt about that.

Fatalities on highways are also related to alcohol. There are a lot of factors which determine to some degree where the cause falls for fatalities, highway fatalities in our country.

The amendment of the Senator from New Jersey basically strikes a provision in the bill now before us. The bill now before us says: States, you decide what your speed limits should be. Why? The committee made the determination that States have a pretty good idea what conditions in those States are compared with other States. The committee also believes that State legislatures and Governors care about people in their own States and that they are going to set a speed limit which they think makes sense in their own State, taking into consideration the safety of the people in their State as well as conditions in a particular State, what the traffic is, how much space is in the State, what the population density might be.

The Senator from New Jersey comes from a very populous State. I think the population density in New Jersey is about a thousand people per square mile. The Senator from New Jersey will remember when I invited him to visit my State of Montana, which has a population of about six people per square mile. We were up in an airplane, flying at night. We were flying from Great Falls, MT, over to Custer, MT, in a twin-engine plane. The Senator from New Jersey turned to me for an explanation and said, ''MAX, where are the people? Where are the lights?''

It was because there were not very many people. There were not very many lights down beneath our plane because there are not very many people in our State compared with the State of New Jersey.

I might say, therein lies one of the major differences between our States. And therein lies the reason for this provision in this bill. And therein lies the basic reason why adoption of the amendment by my very good friend, the Senator from New Jersey, would not be wise.

The argument by the proponents of this amendment essentially has two assumptions. One assumption is that there are not States that will also be able to set speed limits. Just because Uncle Sam decides there is not to be a national speed limit does not mean there is not going to be a speed limit in the States. We still have States. We have State legislatures. We have the governing bodies in States which will determine what the speed limit will be.

There is another assumption in the argument made by the proponents of this amendment, that we do not trust the States. We do not trust the States to do what is right for their own people or for people traveling through the State.

I think in this day and age, State legislatures and Governors have a good idea what makes sense in their States. They are going to want to protect their people. They are going to want to have conditions on the highways that are safe.

I trust the States. I trust the State legislatures to do the right thing for their States, which will, therefore, affect not only the people living in the States but also people traveling through their State.

I would guess, also, that if this bill becomes law—and I very much hope that it does without the Lautenberg amendment—that in all probability State legislatures are going to keep the same speed limit that now exists; that is, in some parts of some States it is going to be 55 miles an hour; in some parts of other States it will be 65 miles an hour. They will probably keep the present law. There will be some instances in the more thinly populated States where there are not a lot of people but an awful lot of miles of highway and not a lot of cars that they may make an adjustment. They may increase, as it should be increased, I think, in some parts of our country. But that is still the State's decision. Under this bill it will still be a State decision. I think the time has come in 1995 where it is proper for the U.S. Congress to trust the States and say, We trust you, you know what is right.

For that reason, I urge Members to not vote in favor of the Lautenberg amendment but rather to vote against it.

Mr. President, I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I rise today in strong support of the Lautenberg-DeWine amendment which my colleague from New Jersey just offered.

Let us talk for a moment about what this amendment will actually do. Our amendment would retain the current speed limit law while at the same time giving the States the flexibility they need in regard to the enforcement of the law, as the Senator from New Jersey has very well explained. This is really a compromise. It is saying to the States that while we believe the roads are traveled by people from all over the country—all you have to do is to stop at any rest area on one of our interstates in Ohio or any other State and you will see how many cars are from out of State. So, clearly there is a national priority, and clearly this is a national policy issue. But while retaining that, we also say that Congress is not going to micromanage this. We are not going to require these reports from the States. We are not going to look over the shoulders of the States. So it seems to me, Mr. President, it is a reasonable compromise.

The bill, as has been pointed out very well, totally repeals 20 years of history, 20 years of experience, and says that basically we have not learned anything in the last 20 years because for 20 years we have seen on our highways lives saved because of what Congress did originally in 1973. As my colleague from New Jersey has pointed out, it was almost, as we would say, an unintended consequence because the law was originally passed because of the energy crisis that this country faced. But, lo and behold, when the statistics came in the next year on all of the fatalities, guess what? We found that thousands of lives had been saved. We found that numerous families had been spared the agony, the horror, and the tragedy of burying a loved one who had been killed on our highways.

Mr. President, I talked about 20 years of experience. The facts are in. The facts are clear. The facts are conclusive. Let us go back to 1973. In 1973, 55,000 people died in this country from car-related fatalities—55,000 people—which affected 55,000 families. In 1974, Congress established the 55-mile-per-hour speed limit. That year the highway fatalities dropped by 16 percent. Fatalities dropped from 55,000 in 1973 to 46,000 in 1974. In my own State of Ohio, according to the Ohio Department of Public Safety, there was a 20-percent decrease in fatalities on Ohio roads over this 12-month period of time. According to the National Academy of Sciences, the national speed limit law saved somewhere between 2,000 and 4,000 lives every year; as many as 80,000 lives since 1974.

Let us move forward in this history to 1987. When the mandatory speed limit was amended in 1987 to allow the 55-mile-per-hour speed limit on some of the rural interstates, the National Highway Traffic Safety Administration found that the fatalities on those highways were then 30 percent more than had been projected based on historical trends.

According to the Insurance Institute for Highway Safety, increasing the speed limit to 65 miles per hour on rural interstates cost an additional 500 lives every year. Mr. President, those highways are probably among the safest roads in America. What is going to happen when we extend that speed limit in rural areas to the more dangerous urban interstates in this country? I think we know what is going to happen. History tells us. Statistics tell us. If we were to see the same increase, a 30-percent increase, on the more dangerous urban interstates that we see on the less traveled, less dangerous rural interstates, the U.S. Department of Transportation estimates that an additional 4,750 people would die every year.

I believe this is clearly not the direction we need to go in the area of highway safety. We need to go in the opposite direction because there obviously are far too many Americans dying on America's highways in this country.

In 1993, in Ohio a total of 1,482 people were killed in car accidents. Over 20 percent of those were speed related. Nationwide, it is estimated that one-third of all highway fatalities are caused because of excess speed.

Mr. President the old adage had it right. Speed does in fact kill. Everyone in this Chamber knows that. Even if

interstate highways were designed for 70-mile-per-hour travel, people are not designed to survive crashes at that speed. As speed increases, driver reaction time, the time that driver has, decreases and the distance the driver needs if he is trying to stop increases. Excessive speed increases the total stopping distance, the driver's reaction time, plus the braking distance. Say a truck is overturned 290 feet ahead of a driver. A driver approaching it at 65 miles per hour would not have time to stop. It would take that driver so long to react and then to brake the car that he or she would still be going 35 miles per hour when they reached that truck. That is a major crash.

Let us say, on the other hand, the driver is approaching the truck at 60 miles per hour. That driver will have a little more time but still not enough to avoid a crash. They would crash into the truck at 22 miles per hour. Mr. President, let us take a third example. A driver approaching at 55 miles per hour would have time to slow down and to stop. When speeds go above 55 miles per hour, every 10-mile-per-hour increase doubles the force of the injury-causing impact.

Let me say that again. It is a phenomenal figure, I think. When speeds go above 55 miles per hour, every 10-mile-per-hour increase doubles the force of the injury-causing impact. This means that at 65 miles per hour a crash is twice as severe as a crash at 55 miles per hour. A crash at 75 miles per hour is four times more severe.

Mr. President, a speed limit of over 55 miles per hour is a known killer. The awareness of this fact is growing. Just yesterday in my office I received a letter from the executive director of the National Save the Kids Campaign urging the adoption of this particular amendment. We need, I think, to face the facts about the speed limit and to do the right thing. It is this part of this bill.

Mr. President, recently in Ohio the director of the Ohio Department of Public Safety, Charles Shipley, testified on this issue. I would like to read briefly what he said. His words are very simple but very powerful. But before I tell you what Chuck Shipley, the director of our department of highway safety, said, I want to tell you who he is. He is not just some bureaucrat. He is not just some political appointee. Chuck Shipley for many years was a highway patrolman. For many years Chuck Shipley had the duty of investigating crashes. Chuck Shipley had the horrible responsibility, as most members of our patrol ultimately do, of talking to a family informing them that their child or their sister or their brother had died. So Chuck Shipley knows what he is talking about. He has been there. He has seen it.

This is what the Ohio Director of Public Safety had to say. As I said, his words are simple and powerful. He was talking about another piece of legislation in Ohio but similar.

This legislation is not in the interest of safety. The few minutes that could be saved will be paid for with injuries and with lives.

Mr. President, that is the exact truth, and we know it. That is why I strongly support this amendment. That is why I also strongly support Senator Reid's amendment.

In the last few years, one of the things that politicians and people in public office have talked about is the phrase ''ideas have consequences.'' I think that is true. Just as ideas have consequences, votes in this Chamber have consequences as well. There are many times when we come to the floor and cast votes where we think we are benefiting society, where we think we can project in years ahead that something we are doing is going to be of help to people. This is one time where we know, based on the past history, based on common sense, what the results are going to be. We do not know how many more people will die, but statistics clearly show us, history clearly shows us that if we change the law as this bill does, more people will die on our highways, and that is the simple truth.

I believe that the compromise my colleague from New Jersey and I have crafted is, in fact, a reasonable compromise. It is a compromise that takes into consideration the concern every Member has for our loved ones, the people we represent, but also balances that with an understanding of where this country is going, as it should, to return more authority and more power to the States. It is a compromise, but it is a compromise that I submit, if we pass it, will save lives. The evidence is abundantly clear.

Mr. President, I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I commend my colleague from Ohio for his statements. He comes from a background in law, served as a prosecutor, and I think certainly has the qualifications and the knowledge to understand what happens when speed is permitted to accelerate at the will and the whim of a driver.

My friend from Montana and I often joke about my visit to beautiful Montana, and since I have been for a long time an outdoor person and hiker and spend time out there, I am always attracted, enchanted by the magnificence of the mountains of Montana, the beautiful countryside, and of course I know the sparseness of the population there but remind my colleague, since he always remembers the story about my looking for signs of life on the ground and not seeing them when we flew over Montana, that in New Jersey we have more horses per square acre than any State in the country. So we live with the wild western life as well as our heavy population density.

But, Mr. President, I say this to you, that an incinerated vehicle, whether it is in Oklahoma or Montana or Wyoming or North Carolina, is no less a tragedy than it is in New Jersey or any of those States. The families still feel the same pain when they lose a loved one. The community still feels the absence of that citizen when they hear about it, when they know about it.

I recently lost a good friend up in Maine, a good friend of mine, a very close friend of our former majority leader, Senator Mitchell, when he was hit head on by a car passing at a very high speed on a two-lane road. The other vehicle was so incinerated that they had to take it to the capital of the State, Augusta, ME, so that they could get the remnants of the bodies out of the vehicle and decide who these people were, the driver and his passenger.

Mr. President, we have many responsibilities in this place of ours but none—none—exceed that of protecting life and limb of our citizens. We maintain a huge defense apparatus to do that. We invest—insufficiently in my view, but we invest—large numbers in our infrastructure—highways, rail, aviation. We have the best aviation system in all of the world because we have put money in it. And we have said that even if there is a delay at your airport, too bad, because that takes second position to that of safety. So they spread the distance between flights, and they make sure that airplanes, too many airplanes, are not in the same area in the sky at the same time.

Safety. Safety is the primary concern. And so what we are saying here is that we are interested also in safety.

We talk about raising speed limits, but I have seen in my travels out West or in mountain country runouts for trucks. Now, sometimes it is because there is a failure in the driving system, but other times it is because the driver is going too fast, his judgment was faulty, and he has to seek the high-risk opportunity to go up a truck runout. If you look at some of those things, you know that when it is snowing on the ground or the truck is going too fast, there has to be a prayerful moment for the driver.

Mr. President, I have a report here that is developed by NHTSA. Its source is the fatal accident reporting system. It is a segment of the structure. They project a 30-percent increase in fatalities if we remove the speed limits. When we look at some of the States that are represented in the Chamber at this moment, a State like North Carolina can expect the fatalities within a year to increase by 243 persons if we remove the speed limits as proposed—243 people in the State of North Carolina.

Mr. NICKLES. Will the Senator yield?

Mr. LAUTENBERG. Yes.

Mr. NICKLES. Did the Senator say according to NHTSA there would be a 30-percent increase in fatalities?

Mr. LAUTENBERG. A 30-percent increase in the fatalities that occur from excessive speed right now, yes.

Mr. NICKLES. There are 40,000, 41,000 auto fatalities.

Mr. LAUTENBERG. If the Senator will permit me to respond, 40,000 total fatalities. Some of those, many of those, maybe 30,000, 25,000 are not related to speed but related to other things, perhaps ice, snow, faulty vehicles, other conditions, grade crossings, et cetera. But those attributed to excessive speed range about 14,000 persons a year, and NHTSA, the National Highway Traffic Safety Administration, projects a 30-percent increase if speed limits are removed.

In Oklahoma, for instance, it would go from 388 persons up by 110, with the projected increase of 30 percent.

So I think the case can be made, Mr. President—once again, I want it to be clearly understood I do not think there is anyone in this room, any Senator or any individual in this room who is saying abandon restraint regardless of consequence; not at all. I would never suggest it. My colleagues are too intelligent, too caring, and work too hard to protect the public. But in this case, I think it is an error to simply resort to the States rights argument and say that we ought not to have any Federal restrictions.

I submit, as I said before, the Federal Government is involved in aviation. We have the safest system anyplace on the globe. And so it is with many other parts of our society. But in this case, I think it is essential because the Federal Government makes the investment, the Federal Government does direct taxpayer money to our infrastructure development, and we will assume not only the tragedy and loss of life but can expect an increase of $15 billion a year in cost to the community and the Government as a result of these accidents.

And so, Mr. President, once again, I appreciate the support and the help of my colleague from Ohio and hope that we will be successful.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I rise in opposition to the Lautenberg-DeWine amendment and urge my colleagues to vote no.

I might ask the sponsors of the amendment, Do we have a time set for the vote on Lautenberg?

I understand from the manager of the bill, Senator BAUCUS, we do not have a time set for that vote, but I would just urge my colleagues when we do vote on it to vote no.

I compliment the committee for taking their position. The committee's position was not to raise speed limits. The bill that we have before us does not raise speed limits.

It allows the States to set the speed limits. There is a big difference. Some of my colleagues are assuming that we will have a national speed limit, if this bill passes as it is, of 65 or 70 miles an hour. That is not the case. The case is which jurisdiction of government should properly make this decision? Should it be decided by the Federal Government and mandated by the Federal Government? Or should it be decided by the States? That is what the vote is: Who should set the national speed limit or who should set speed limits. Should it be a national mandate or should we allow States to make the decision?

To have individuals talking about a 30-percent increase in fatalities due to speeding, I think, is hogwash. What makes you think the States are going to increase the speed limit? Maybe they will if it is strongly supported in their States and the State highway administration thinks it is safe. Maybe they will.

Mr. DEWINE. Will the Senator yield?

Mr. NICKLES. Let me make some more comments and then I will. They say, if this bill passes, 4,750 people are going to die every year. I think that comment is absurd. Are we taking a position that we need to have the National Government mandate speed limits because States do not care about safety, States do not care about fatalities? Again, I find that absurd.

I go back to the Constitution on occasion, and I read in the 10th amendment, it says:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Why not allow the States and the people to make this decision? Our forefathers, I think, would be shocked to find out that we have national speed limits, we have the Federal Government making all kinds of constraints and saying, ''Well, if you don't comply, you don't get your money.''

The money was raised within the States from a State-generated tax on gasoline primarily to fund the highway program. That money is sent to Washington, DC, and before Washington, DC, will send it back, you have to comply and if you do not comply, you do not get the money. Uncle Sam is putting the strings in, Uncle Sam, big Government, saying, ''States, you must do this, and if you don't, you won't get your money back or we are going to withhold some money.'' We are telling the States, the State legislatures and State Governors, ''Well, we don't care, we're going to mandate, we're going to tell you exactly what you have to do.''

To get to this figure of 4,750 people I think is just ludicrous. Look at the statistics. In 1965, we had over 50,000—about 51,000—fatalities on our highways. In 1974, when we imposed the national speed limit, it had already dropped to 45,000. It declined fairly consistently throughout, and today the number of fatalities is a little over 40,000. There has been a consistent decline for a lot of different reasons: automobiles are built safer, we have airbags, we have more divided highways—there are many different reasons. Some people are driving slower; some people are driving faster.

The real issue we are going to vote on today is not what the national speed limit should be but if the States should make the decision or should we have it mandated by the Federal Government. That is the decision. The committee properly recommended that the States should make the decision.

Mr. President, I am going to have printed in the RECORD an article from the Washington Times by Stephen Chapman entitled ''Clocking the 55–Mile-an-Hour Debate.'' It mentions that opponents are going to say, ''We are concerned about safety.'' I am concerned about safety. I have children who are driving on the highways. I want those highways to be safe. I just happen to think the State of Oklahoma or the State of Virginia is just as concerned about safety as the Federal Government, and maybe those States will want to increase the speed limits, if they think it is safe and prudent to do so, if the highway is built well. Or maybe they will not. Maybe they will be convinced that if we have increased speed limits, we will have an increased number of fatalities.

If they do not want to increase the speed limit, that is their decision, and I can abide by it. For people to say we did have over 50,000 fatalities in the sixties and then 45,000 in 1974 and now it is 40,000, but if we do not have a national speed limit, we assume it is going to jump up to 45,000, makes no sense whatsoever. That is not sustainable. For the national highway transportation people to make that kind of allegation I think is ludicrous. It shows they are against the amendment. Well, this administration is for more Government. They like the idea of the Federal Government making decisions instead of the States making decisions.

Many Governors do not agree, Democrat and Republican Governors. Mr. President, I have numerous letters from Governors, from a variety of States, Democrats and Republicans, who are supportive of allowing the States to make these decisions.

Lawton Chiles, a former Senator and now Governor of the State of Florida, says:

> Recognizing the national maximum speed limit is one of 19 mandates in current Federal law which threatens to sanction States with the loss of transportation funds, the State of Florida would clearly prefer an incentive approach over mandated activities.

What we have right now is a mandated activity.

I have a letter from the Governor of the State of Maine, Angus King, who says:

> As Governor, I am striving to not only gain empowerment for the State of Maine from Federal restrictions but to pass that right to Maine's citizens who truly know best what their needs are. Therefore, I do support your proposed legislation and would recommend its passage.

The proposed legislation is to allow the States to set the speed limits.

Governor Engler of the State of Michigan says:

My administration is a strong proponent of States rights and an active opponent of unfunded Federal mandates.

This is an unfunded mandate.

Continuing with Governor Engler's letter:

Speeding is a factor in one-third of all fatal crashes. I believe, however, that speed variance and violators are the major causes, not the setting of higher speed limits.

In addition, I believe that individual States are better prepared to identify safe speeds for the roadways than the Federal Government.

That is the point I am making. I know the Governors are just as concerned with safety and fatalities on their roadways as this body is, as the Federal Government is.

I have a letter from the State of Montana, Governor Racicot. He talks about Montana being a large, sparsely populated State with hundreds of highway miles through rural areas:

The Governor writes,

The diverse terrain and widely varying population across our State make enforcing a single speed limit based solely on the type of highway difficult, if not impossible. And a speed limit set with large eastern cities in mind often doesn't make sense in Montana.

I think he is correct.

I have additional letters from the Governor from the State of South Carolina, Governor Beasley and the Governor from the State of New Hampshire, Governor Merrill. I will just read this one paragraph from Governor Merrill:

In addition to feeling the States should set their own speed limits, I also believe motorist compliance, or noncompliance, with those speed limits should not be related to the withholding of construction funds awarded to individual States.

I think he is correct.

I have a letter from Fife Symington, Governor of the State of Arizona, a letter of support from the Governor of the State of Tennessee, Governor Sundquist. I will read one comment:

I agree with you that authority regarding speed limits should not be imposed by the Washington bureaucracy, but should be regulated by each State who understands their own transportation needs and who knows what restrictions are best for their citizens.

I have a letter from Governor Keating of my State of Oklahoma. He goes on:

As you know, Federal mandates and penalties for noncompliance are a constant threat to Oklahoma's ability to build, maintain and manage highways effectively.

Also, a letter from Governor Glendening of Maryland:

Sanctions which reduce critically needed transportation funds are counterproductive.

Again, I think he is right. I happen to think the Governor of Maryland, the Governor of Oklahoma, and the Governor of Montana are just as concerned—frankly, I think they are more concerned—than we are with highway safety within their States.

Again, I want to make clear that all of my colleagues are aware of the fact this bill we have before us, reported out of the committee, does not raise the national speed limit to 65, does not raise it to 70, does not raise it to 80. It says, ''States, you make the decision.'' We have a little bit of confidence in the States. We think that is a decision that is more properly reserved to the States than the Federal Government. Very plain, very simple.

The people who are proposing this amendment obviously feel the Federal Government should make the mandate and enforce the mandate and say, ''If you do not comply with posting, we are going to take your money away. If you do not comply with enforcement''—now under the proposal before us, under the Lautenberg proposal, it says you have to post the speed limit at 55, the national speed limit, but you do not really have to comply with it, we are going to leave compliance to the States.

I think that is going to create a contempt for the law. Why not allow the States to set the speeds limits, post the speed limits and enforce the speed limits? To end up saying we are not going to have any sanctions on enforcement but you are going to have to post limits I think is a mistake. Therefore, if the State of Montana wants to have a speed limit of 65 they could legally have zero fine or penalty for exceeding the speed limit. That is going to create contempt for the law.

Maybe it is an effort to compromise, I do not know. I think it is a mistake. I think it is defying States saying, we do not think you can do the job; we are going to do it for you. We are going to tell you that you must do that. I disagree with that. I think the forefathers and the 10th amendment of the Constitution says all rights and powers are reserved to the people and the States. Our forefathers are right.

Why do we come in and micromanage and dictate what they must do to get their money back, money that came from constituents in those States? I might also mention that many States do not get their money back. A lot of States are so-called donor States: They pay a dollar in taxes to Washington, DC, and get 90 cents back. They are shortchanged from the start and then with the 90 cents they get back, they must comply with a lot of Federal regulations. Complying with the Federal speed limit is just one such mandate.

I might also mention that it is a national speed limit law that is not complied with. I am not shocking anybody by saying that. But if you drive 55 on a lot of our highways around the country today, you will find that you are not going with the prevailing speed. Again, I am not one that says the speed limit should be higher; I am one who says the States should make that decision. The States should make that decision, not the Federal Government.

So I urge my colleagues, when we vote a little later, to vote ''no'' on the Lautenberg-DeWine amendment.

Finally, Mr. President, I want to print one additional article in the RECORD. The article is in today's Washington Times entitled, ''Why Do We Still Have to Drive 55?''

I will just read this one paragraph:

For example, after Congress gave the States the authority to raise the speed limit on selected rural interstates to 65 mph in 1987, a study done by the American Automobile Association in 1991 found that the fatalities in these regions fell by 3 percent, to 5 percent overall—thus belying the conventional wisdom that ''speed kills.''

The author states in a further paragraph:

''Fifty-five'' is almost universally despised, fosters contempt for legitimate authority and, paradoxically, probably increases the number of accidents because frustrated drivers tailgate, swerve and pull other maneuvers to get around the car ahead that's dawdling in the fast lane.

I ask unanimous consent the two articles, as well as the letters from several Governors in support of allowing the States to make the decision, be printed in the RECORD.

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

STATE OF FLORIDA,
OFFICE OF THE GOVERNOR,
Tallahassee, FL, May 19, 1995.

Hon. DON NICKLES,
U.S. Senator,
Washington, DC.

DEAR DON: Thank you for your letter concerning legislation you have introduced to repeal the National Maximum Speed Limit.

Recognizing that the National Maximum Speed Limit is one of the 19 mandates in current federal law which threatens to sanction states with a loss of transportation funds, the State of Florida would clearly prefer an incentive approach over mandated activities. With regard to the mandates referenced above, for the most part Florida would not alter appreciably our practices if these mandates were rescinded. Notably exceptions would be outdoor advertising and control of junk yards. Also, the Intermodal Surface Transportation Efficiency Act (ISTEA) Management System requirements could become very costly and should be made optional, or certainly less rigid.

Concerning the National Maximum Speed Limit mandate, one additional option not altogether unlike your approach, would be to set one national maximum—say 65, 70 or 75 mph. States would then be free to set speed limits as they best determine based on traffic and safety analysis with an upper cap already established. The urban/rural split between speed limits contained in the existing mandate is somewhat arbitrary and inconsistent with accepted methodology for setting speed limits, and should be dropped. Turning to a slightly broader subject, it is my view that the transportation funding needs of donor states like Florida and Oklahoma must inevitably be addressed. One solution worthy of possible consideration is a modified turnback, whereby only a limited federal highway role would be maintained. The federal gas tax would be reduced accordingly and individual states given the option of passing a replacement state gas tax. Form a variety of standpoints, this concept would seem to be attractive.

Again, thank you for your correspondence and I would welcome the opportunity to have our two states work together in the future for our mutual benefit.

With kind regards, I am

Sincerely,

LAWTON CHILES.

STATE OF MAINE,
OFFICE OF THE GOVERNOR,
Augusta, ME, May 3, 1995.

Hon. DON NICKELS,
Oklahoma City, OK.

DEAR SENATOR NICKLES: Please allow me to apologize for the delay in getting back to you. Thank you for your letter concerning the introduction of a bill to repeal the National Maximum Speed Limit.

It has been our experience in the State of Maine since the increase in the maximum limit from 55 MPH to 65 MPH, that compliance is no longer an issue. However, as you noted, the potential loss of highway funds is indeed a penalty which would severely impact our ability to properly fulfill our responsibility to Maine citizens and their transportation needs.

As Governor, I am striving to not only gain empowerment for the State of Maine from Federal restrictions but to pass on that right to Maine's citizens who truly know best what their needs are. Therefore, I do support your proposed legislation and would recommend its passage.

Thank you for giving me an opportunity to respond to your request for Maine's views on this matter.

Sincerely,

ANGUS S. KING, JR.,
Governor.

STATE OF MICHIGAN,
OFFICE OF THE GOVERNOR,
Lansing, MI, April 21, 1995.

Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATOR NICKLES: This is in response to your letter requesting my support and views on your bill to repeal the National Maximum Speed Limit. My administration is a strong proponent of states rights and an active opponent of unfunded federal mandates.

Speeding is a factor in one third of all fatal crashes. I believe, however, that speed variance and violators are the major causes, not the setting of higher speed limits.

In addition, I believe that individual states are better prepared to identify safe speeds for their roadways than the federal government. If the National Maximum Speed Limit restrictions are repealed at the federal level, all states must consider increasing fines and banning radar detectors wherever the higher limits are allowed in order to give law enforcement the tools necessary to mitigate any potential increase in deaths and injuries. Persons who violate the higher speed limits do present a substantial public safety hazard.

Given the above reasons, I support your efforts with reservation. Thank you for the opportunity to share my thoughts with you.

Sincerely,

JOHN ENGLER,
Governor.

STATE OF MONTANA,
OFFICE OF THE GOVERNOR,
Helena, MT, May 5, 1995.

Hon. DON NICKLES,
U.S. Senator,
Oklahoma City, OK.

DEAR SENATOR NICKLES: I agree with your position that a nationally-imposed maximum speed limit is inappropriate in many states, including Montana.

Montana, as you know, is a large, sparsely-populated state with hundreds of highway miles through rural areas. In addition, our population is greater in mountainous western Montana than in the prairie areas of the eastern half of the state. But even our most populated areas are rural when compared to cities in the eastern part of our country.

The diverse terrain and widely-varying population across our state make enforcing a single speed limit based solely on the type of highway difficult, if not impossible. And a speed limit set with large eastern cities in mind often doesn't make sense in Montana.

I agree with you, Senator Nickles, that the role of assigning reasonable speed limits should be returned to the states and I support your legislation.

Sincerely,

MARC RACICOT,
Governor.

STATE OF SOUTH CAROLINA,
OFFICE OF THE GOVERNOR,
Columbia, SC, April 3, 1995.

Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATOR NICKLES: Thank you for your recent letter regarding your bill which would repeal the National Maximum Speed Limit and return to the states the authority to regulate their own speed limits. I appreciate the opportunity to provide input regarding this legislation.

I believe the federal government should empower states with more responsibility and allow more control to make decisions affecting our futures. Should your legislation become law and we are given the authority of regulation, we will carefully assess our present speed limits to determine if changes may be necessary.

Again, thank you for sharing this information. Please do not hesitate to contact me if I may be of assistance in the future.

Sincerely,

DAVID M. BEASLEY.

STATE OF NEW HAMPSHIRE,
OFFICE OF THE GOVERNOR,
Concord, NH, May 9, 1995.

Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATOR NICKLES: I am pleased that you have introduced legislation to repeal the National Maximum Speed Limit. I am in agreement that states should be empowered to set speed limits that are appropriate for their highways, and the responsibility to dictate speed limits should not reside at the federal level.

In addition to feeling that states should set their own speed limits, I also believe motorist compliance, or non-compliance, with those speed limits should not be related to the withholding of construction funds awarded to individual states. Furthermore, states should not be penalized by withholding their construction funds because they have neither a universal seat belt use law, nor a motorcycle helmet use law. This currently exists under the provisions of the Section 153 transfer funds. My feelings on this subject are further stated in the attached letter dated January 27, 1994 to Frederico Pena, Secretary of Transportation.

We in the Granite State are very proud of our highway safety record which is possible only through the united efforts of local, State and county entities. In 1994, the lowest number of people died on New Hampshire highways in over 30 years, and we are striving to improve that record.

In closing, let me say that I support your legislation, as well as any efforts which have the goal of returning to the states the power to actively manage their own affairs.

Very truly yours,

STEPHEN MERRILL,
Governor.

STATE OF ARIZONA,
EXECUTIVE OFFICE,
Phoenix, AZ, April 13, 1995.

Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATOR NICKLES: Your legislation repealing the National Maximum Speed Limit will be a step in restoring the ability of states to set and maintain speed and safety standards without having to fear sanctions from Washington, D.C. You have my full support in your endeavors to restore responsibility to state governments.

If you need any help, do not hesitate to contact me.

Sincerely,

FIFE SYMINGTON,
Governor.

STATE OF TENNESSEE,
STATE CAPITOL,
Nashville, TN, April 18, 1995.

Senator DON NICKLES,
Washington, DC.

DEAR DON: Thank you for your letter advising me about the legislation that you have introduced that will repeal the National Maximum Speed Limit and return to the states the authority to regulate their own speed limits.

I strongly support this legislation that will further empower states with the responsibility to make their own decisions with regards to speed limits. The National Maximum Speed Limit is a part of federal law which threatens states with the loss of their badly needed highway funds. I agree with you that authority regarding speed limits should not be imposed by the Washington bureaucracy, but should be regulated by each state who understands their own transportation needs and who knows what restrictions are best for their citizens.

I agree with and support this important legislation. If there is anything else that I can do, please do not hesitate to contact me.

Best regards,

DON SUNDQUIST.

STATE OF OKLAHOMA,
OFFICE OF THE GOVERNOR,
Oklahoma City, OK, March 31, 1995.

Hon. DON NICKLES,
U.S. Senator,
Washington, DC.

DEAR SENATOR NICKLES: I applaud your recent introduction of legislation proposing the repeal of the National Maximum Speed Limit. As you know, federal mandates and penalties for non-compliance are a constant threat to Oklahoma's ability to build, maintain and manage highways effectively.

There are twenty federal mandates that affect highway funds which carry significant cash penalties for non-compliance. I appreciate your dedication to removing one of these obstacles from Oklahoma's path, and encourage you to address other mandates that threaten the prosperity of our state.

Thank you for your distinguished leadership and your dedication to Oklahoma's success. The legislation you are presenting will provide our state with the freedom to grow and prosper, and I wholeheartedly support this effort.

I look forward to seeing you at the state convention April 8.

Sincerely,

FRANK KEATING.

STATE OF MARYLAND,
OFFICE OF THE GOVERNOR,
Annapolis, MD, May 24, 1995.

Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATOR NICKLES: Thank you for your letter informing me of your introduction of S.476, a bill to repeal the National Maximum Speed Limit. I agree with your opposition to the sanctions that are required by existing law. Instead of punishing states for lack of adequate compliance, it would be better to reward those states which enforce speed limits, perhaps in the form of bonus funding for transportation programs.

Sanctions which reduce critically needed transportation funds are counterproductive. I would not, however, abandon the concept of a national speed limit, which can serve a useful purpose, especially in regard to traffic fatalities. Thank you again for informing me of your proposal.

Sincerely,

PARRIS N. GLENDENING,
Governor.

[From the Washington Times, June 7, 1995]

CLOCKING THE 55 MPH DEBATE

If you want to get a debate going among legal scholars about the meaning of federalism, ask them about the Supreme Court's recent decision limiting the reach of the Constitution's interstate commerce clause. But if you want to get a debate going among ordinary people, ask them abut the 55 mph speed limit, which strikes some Americans the same way the Stamp Act struck Patrick Henry.

The 55 mph speed limit was mandated by the federal government in 1973 at the behest of President Nixon, who proposed it as a way to conserve fuel during the Arab oil embargo. States, which had always set the speed limits on their highways, suddenly found they had lost their authority. They may finally get it back, though, as a result of the GOP takeover of Congress. Republican Sen. Don Nickles of Oklahoma has introduced a bill to repeal the federal maximum. Other bills in Congress would simply deprive Washington of the money to enforce it.

The issue that arouses car buffs is speed. Prior to the federal intrusion, states set the limits anywhere from 65 mph to 80 mph—and Montana and Wyoming had no limit at all. Drivers with lots of pent-up horsepower have yearned for years to be able to open the throttle without fear of the highway patrol.

The passion on the other side of the issue is safety. One unforeseen result of the lower speed limit, defenders say, was a sharp decline in traffic fatalities, and one inevitable consequence of raising it will be more carnage on the roads.

The opponents of 55 are not entirely without arguments. They insist that everyone ignores it because it is ridiculously low and that higher limits would bring the law into closer conformity with the prevailing practice. Besides, they say, plenty of highways are engineered for much higher speeds than those now allowed.

The case amounts to more than just determined rationalization of dangerous behavior, but not a lot more. The defenders of 55 say that when Washington let states raise the limit to 65 on rural interstates in 1987, the death toll on those roads jumped by 20 percent.

This validates the common-sense assumption that if people drive faster, they are more likely to get killed. ''It's possible to design cars and roads for high speed, but we haven't been able to design people for high speed,'' says Chuck Hurley of the Insurance Institute for Highway Safety. If posted maximums rise, I somehow doubt today's speeders will start obeying the law. Higher limits may or may not mean less speeding; they will definitely mean more speed.

But to get caught up in the issue of where to set the speed limit is to miss the more important issue, which is who should set it. There are plenty of good reasons to support 55, but none to insist that it be imposed by Washington.

On this, the left and the right should have no trouble agreeing. Conservatives have always wanted to decentralize power. But last year, during the debate on the crime bill, it was liberals who opposed Congress' grandstanding federalization of crime by noting that public safety and order have always been the province of local and state governments. If you're waiting for liberals to apply that logic to the speed limit issue, though, you'd better make yourself comfortable.

In fact, there is no reason on Earth that states should not be free to decide for themselves whether the danger of more auto accidents outweighs the advantages of faster travel. In a country that has highways as congested as New Jersey's and as empty as New Mexico's, we should be able to recognize that different places and that locals are best situated to make the judgment.

Nothing about the issue warrants federal intervention. If a state ignores pollution, the state next door will suffer harm to public health; if a state slashes welfare, its neighbors may be flooded with paupers. But if Illinois chooses to let people drive 70 mph on its highways, no one in Iowa will be at risk.

Iowans who venture eastward, granted, may be exposed to more adventure than they prefer on the highway. But Iowans who set foot in Chicago endure a greater likelihood of being murdered, which doesn't give them the right to dictate the number of cops on the street.

If states and cities are competent to set the speed limits everywhere from quiet residential streets to busy six-lane boulevards, they can certainly handle highways. Those who support keeping the 55 mph maximum should make their case to state legislatures, which are not indifferent to the lives and limbs of their constituents. Legislators may not always arrive at the right policy, but one of the prerogatives of states in their proper responsibilities is the right to be wrong.

[From the Washington Times, June 20, 1995]

WHY DO WE STILL HAVE TO DRIVE 55?

(By Eric Peters)

Make sense of this if you can: Prior to the great oil price shocks and shortages of the 1970s, speed limits on American highways were typically set at 70–75 mph. Now in those days, cars were great lurching behemoths riding on skinny little bias-belted tires that needed more room than an incoming 747 to come to a stop. No antilock brakes (ABS), no air bags—and suspensions that weren't worth a hoot in a corner.

Jump forward to 1995. All new cars have radial tires, superb brakes (and almost all have ABS), offer excellent road-gripping suspensions, air bags and superior body structures that, when combined with today's state-of-the-art powertrains, make for automobiles that can safely loaf along on a modern interstate highway at 80, 90—even 100 mph—in the hands of any competent driver.

Yet the federal government adamantly clings to the 55 mph ''national speed limit''—citing ''safety'' and the need to conserve fuel.

The second rationalization—energy conservation—is easily dispensed with. Proven reserves are sufficient to supply our needs into the foreseeable future—and new oil fields are being discovered all the time. As proof of this abundance, one need only take note of fuel prices at the pump, which have remained constant or declined over the past 15 years.

If the supply of oil was in danger of drying up, prices would be skyrocketing in anticipation of impending shortages. Yet a gallon of unleaded premium today is typically sold for $1.35–$1.40—which is less than what it cost in 1980.

Besides, thanks to overdrive transmissions, fuel injection and computerized engine management systems, today's cars are much more efficient than their crude forebears of the mid-1970s. Simply driving a late model car—even at 80 mph—is a fuel-saving measure all by itself.

The safety issue is the toughie. Pro-55 people recite the mantra that ''speed kills''—an allusion to their belief that the higher your rate of travel, the less time you will have to react; ergo, you are more likely to have an accident when driving fast—and more likely to die or be seriously injured when you do have one.

There's a certain logic to this, but it fails to take into account the improvements in vehicle design that have occurred over the past two decades. Today's cars are so much better, so much safer (thanks to ''crumple zones,'' side-impact beams in the doors, air bags, etc.) than cars built just 20 years ago, that they're generally less likely to be involved in accidents, and if they are, the occupants are less likely to be seriously hurt.

For example, after Congress gave states the authority to raise the speed limit on selected rural interstates to 65 mph in 1987, a study done by the American Automobile Association in 1991 found that fatalities in these regions fell by 3 percent to 5 percent overall—thus belying the conventional wisdom that ''speed kills.''

There's also a wealth of information derived from crash studies done by the automobile manufacturers themselves, all of which indicates that people in modern cars equipped with air bags and other safety features have much better odds of surviving a serious accident than occupants of older vehicles lacking such features.

I know, for example, that if I slam on the brakes in my ponderous and poorly designed 1976 Pontiac Trans-Am (a state-of-the-art, ''high performance'' car back then) at 100 mph, I'm going to go into a skid and will probably wreck the car. If I tried the same thing in a 1995 Trans-Am—which has high-capacity, 4-wheel disc brakes and anti-lock—I wouldn't even spill my drink.

A front end collision 20 years ago at 40 mph was usually fatal; today, thanks to air bags, you stand a very good chance of walking away. Just ask the National Highway Traffic Safety Administration. Or the insurance companies—which offer more favorable rates to drivers of new cars equipped with air bags, ABS and the other safety gear mentioned earlier.

Humdrum mass-produced cars can outbrake, outhandle—and sometimes out-accelerate—the finest exotic and high performance machinery of 20 or 30 years ago. It's ludicrous to throttle their ability by making them go 55. Most people understand this and recognize that the hated ''double nickel'' is in place mainly for revenue collection—the bounty provided by ticketing motorists for ''speeding'' at 65 or 75 mph on a modern highway.

''Fifty-five'' is almost universally despised, fosters contempt for legitimate authority and, paradoxically, probably increases the number of accidents because frustrated drivers tailgate, swerve and pull other maneuvers to get around the car ahead that's dawdling in the fast lane.

For now, it looks like we'll have to live with this. So while we're waiting for saner—and more equitable—traffic laws, a lighter foot and keener eye will have to suffice to keep us all out of trouble with the law.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio. The Senator from Oklahoma still has the floor.

Mr. DEWINE. I thought he yielded the floor.

Mr. NICKLES. I yield the floor.

Mr. DEWINE. Mr. President, let me try briefly to respond to the very eloquent comments of my colleague from Oklahoma. My friend talks about the fact that our forefathers would be shocked at amendments such as this. I think our forefathers would be shocked by the Interstate Highway System. I think they would be shocked by over 40,000 deaths every single year. So I am not sure that that really has, at least from this Senator's perspective, a great deal of validity.

The Senator talked about the figures that were cited—that I cited, that my colleague from New Jersey cited. Those were not our figures. They were national experts, respected, who gave those figures.

He talked about those arguments and figures being hogwash, ludicrous. Let me assure him that I am not attempting on this floor today to extrapolate or speculate or predict in any way, shape or form the number of auto fatalities that there will be. I think it is important to cite what the experts tell us.

I am not pretending to project that. I would ask my friend from Oklahoma to find me one expert—one expert—in this whole country on highway safety who will say that there is not a direct relationship between speed and number of fatalities. It is an accepted fact.

If we want to talk to the real experts, go to any State in the Union and talk to the law enforcement officers who literally have to scrape people up off the roads. The law enforcement officers who study this, the law enforcement officers who have to deal with it every day, and have to talk to the families, and ask them if, in their opinion, speed does not matter, and speed does not kill. It does.

That is what we are saying. It is all we are saying. But I think it is a lot to say. I agree with my colleague from New Jersey. No one is saying that anybody on this floor does not care about human life and does not care about the welfare of people. I think the evidence is abundantly clear what will happen if, in fact, this bill as written is passed without this amendment.

The evidence is clear. We saw the statistics in 1973 and 1974. We saw what happened when this Congress allowed more flexibility at the State level. We saw what happened. We saw that the States did jump in. We saw the tremendous pressure. We saw the fact that speed limits were increased. Then we saw the auto fatality rate change. We saw it go up from what it should have been and was expected to be.

I do not think it is too big of a step of the imagination—I think, the opposite. The evidence is abundantly clear what will happen. That is, that speed limits will, in fact, be increased.

It is true that this bill does not do it directly. It will do it indirectly. The consequences are very clear.

I want to assure my colleague from Oklahoma I am not saying that we can predict exactly how many people will die, how many families will be crushed. But we can pretty well predict this: more will be—with this bill as it is written—than would be if the amendment were passed. I think that is very, very, significant.

I know there are other Members on the floor who would like to talk. I would end by saying that this is a compromise. I think it is a rational compromise.

It is rational that when you drive on the Interstate Highway System there be uniformity. But it is also rational, as we turn power back to the States, as we are sensitive as we should be to where the enforcement should take place and who has to really do the job every day, that we not try to micromanage things from Washington, and not tell the States how to enforce the law, allow the States the flexibility to do that.

That is what this bill does. It eliminates the reporting. It eliminates the looking over the shoulder. What it does say is that there is still a national standard.

Mr. FAIRCLOTH. Would the Senator from Ohio yield?

Mr. DEWINE. I am happy to yield to the Senator.

Mr. FAIRCLOTH. Does the Senator from Ohio not feel that the Ohio Legislature is not competent to set the speed limit for the State of Ohio?

Mr. DEWINE. My colleague would make the point of States rights, and my colleague from Oklahoma made the point about States rights.

For this Senator, it is a balancing test, as I think most things are in Congress, most things are in the Senate. It is a balancing test of how much we send back to the States, how much we need to have some national uniformity.

I think what we are doing in this amendment is, in fact, a balancing test. It is not a question of do we know best here? Do people know best in Columbus or Indianapolis? I think it is simply a balancing test. That would be my response to my friend.

I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. WARNER. Mr. President, the proponents of two amendments are desirous of getting fixed time agreements and a set time for the vote.

I would like to propose for a discussion a unanimous-consent request that, at the hour of 12:15, there occur a vote on the amendment of the Senator from Nevada [Mr. REID] that would be for a period of 20 minutes, the normal time for a vote; at the conclusion of that, there would be a vote; then, on the Lautenberg amendment, or in relation to, for a period of not to exceed 10 minutes; and that the time remaining between the end of this colloquy discussion now be equally divided between the Senator from New Jersey and the Senator from Oklahoma.

Mr. LAUTENBERG. Will the Senator yield? In the earlier unanimous-consent request we had an agreement that a technical change to the Lautenberg amendment would not affect the structure of the amendment, but would reflect the response to whatever the outcome is on Reid would be acceptable. I would like to have that in there.

Mr. WARNER. Mr. President, I so amend the unanimous-consent request to reflect that.

The PRESIDING OFFICER. Is there objection?

Mr. FAIRCLOTH. How much time do I have to speak to the amendment, since I introduced it in the committee?

Mr. WARNER. Mr. President, that would be up to the discretion of the two individuals that have been assigned the allocation of the time.

The PRESIDING OFFICER. Is there objection to the request?

Mr. WARNER. Mr. President, further to inform the Senate, at the conclusion of the second vote, the Senate would stand in recess for a period of time determined by the leaders which I presume would be until 2:15.

The PRESIDING OFFICER. Is there objection?

Mr. LAUTENBERG. Our colleague from North Carolina did want some time, and in the remaining 20 minutes, if we had 5 minutes to wrap up, I would agree for the Senator from North Carolina to have 15 minutes.

Mr. FAIRCLOTH. I will not need 15 minutes.

Mr. LAUTENBERG. Such time as the Senator desires.

The PRESIDING OFFICER. Without objection, that will occur.

Mr. WARNER. Mr. President, I suggest since we have now adopted the unanimous consent that the Chair restate it for the benefit of all Senators.

The PRESIDING OFFICER. The time between now and 12:15 be equally divided between both sides, and the Senator from North Carolina be recognized for 10 minutes.

Who yields the time to the Senator from North Carolina?

Mr. NICKLES. I yield 5 minutes.

Mr. FAIRCLOTH. Mr. President, hearing the eloquent rebuttal from the Senator from Oklahoma does not leave a lot to say. A few things occur to me.

The one thing we have said repeatedly is that the bill does not set or raise speed limits. It does not lower them, it does not raise them. I would have thought by osmosis, it would have gotten through to most people, if by no other method. However, it does not seem to have done so.

The press is adamantly insisting that we are raising speed limits. We are simply saying what the amendment and bill says, and that is the States will have the right to do it. The States.

As was read by the Senator from Oklahoma, Senator NICKLES read the 10th amendment. It is clear. This is the prerogative of the States. Yet we have taken it. We do everything. The Federal Government can do it all.

The amendment, as proposed, is complete hypocrisy. It says you post a speed limit but you do not enforce it. You post it. You have to put the sign up, but you do not do anything about it. It becomes a joke, a facade. But you have to post it.

If that does not breed contempt for the law, I do not know what would. It is precisely the kind of proposal that you would expect out of Washington. To propose something, put up the sign, but, really, it is kind of wink at it, ride by and give it a little wave.

Senator LAUTENBERG could post 35 miles per hour on the New Jersey turnpike and allow 80, but it would look good. This thing is totally crass politics.

What we are doing here today is simple, common sense. That is to let the States do it. I do not think anybody believes that Rhode Island needs the same speed limit on most of its roads as Arizona or the wide open States. We, in North Carolina, do not need the speed limit that they need. We cannot drive as fast as a person probably could in Arizona or Nevada or some of the other States.

This is the worst example of Washington knows best, or the worst example of our attempt to compromise.

I said one time that if somebody put in a bill to burn the Capitol down we would not tell him he was an idiot, we would compromise with him and burn a third each year. That is about what this amounts to. We are simply saying that we do not want to really face up to giving the States the authority, and yet we do not want to force them to enforce a law.

Senator NICKLES read a number of letters from Governors and heads of departments of transportation all around the country. I have several. One I have is from North Carolina. It says, just one brief paragraph of it I will read. This is from Sam Hunt, the head of the department of transportation from North Carolina.

> States are capable of establishing speed limits within their individual borders on the basis of sound engineering practice and the specific circumstances involved. Federal involvement is not required. Every State is different, and a ''one size fits all'' approach is totally inadequate and inappropriate.

Mr. President, I do not know much more you can say on this except to reiterate repeatedly that this is not a bill to raise the speed limit. This is a bill to give the States the authority to set whatever speed limit they see fit.

Mr. NICKLES. Mr. President, I yield the Senator an additional 2 minutes.

Mr. FAIRCLOTH. We had an election in November in which the people stated clearly that we wanted less rules, less regulations and less authority from Washington. They wanted the right to set their own rules and regulations where it was reasonable and practical.

In this instance it is totally reasonable and totally practical that the States should be setting the speed limits. If a State legislature is not capable of setting the speed limit within the State then what is it capable of doing?

I submit to you, Mr. President, this is another intrusion of the Federal Government into a State right, a law the States should be handling and passing at whatever speed they want it to be. And it is not an attempt to increase the national speed limit. The States have the right to set their own.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that Senator FEINSTEIN be included as a cosponsor of this amendment.

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

Mr. LAUTENBERG. Mr. President, I listened with interest to the debate coming from the opponents of my amendment, and, frankly, I am perplexed. I am sorry my good friend from North Carolina left the room because he and I have engaged in friendly differences before and I wanted to have a chance for this friend to respond. But he is out of the room.

I will, nevertheless, respond to a couple of comments that both he and our distinguished friend from Oklahoma made. Here we are, robbing the States of their opportunity to make decisions, and, by eliminating sanctions, by eliminating reporting requirements, by getting the so-called burden off the States so they do not have to respond to Uncle Sam.

They said, ''No, that is not good. Are we not responsible citizens who run our States? Governors and legislators and all that?''

Of course. I agree to that. I think they are intelligent people. And I said earlier I do not think one part of this debate wants more people dead on the highways than the other. I just think it is a terrible error to remove the speed limit rules we presently have. But it is up to the States. It is up to the States to enforce it. So, on one hand, the States are intelligent enough to do it if we just let it go. On the other hand, they are not intelligent enough to do it if we say, ''Here are the rules. You decide how the rules are played.''

Mr. President, I wrote the law on the Senate side to raise the drinking age to 21. We had a strong debate and it happened. It is said, by the National Highway Traffic Safety Administration, that 14,000 kids are alive today who would not have been.

I point out to my friend from Oklahoma, there is not one demand by the Federal Government that they do anything. We are relying on the intelligence of State governments to administer these programs. Mr. President, 14,000 families spared of mourning, spared of the pain and anguish of the loss of a loved one.

We wrote the law and the law stood and we did not have to tear down the Federal Government or burn the building to make it happen.

I hear these arguments all the time about how foul the Federal Government is, and I do not understand it. We built the greatest Nation on Earth. People will kill to get here—will die to get here. But we criticize this place as if it is some foreign body. This is the Government of the people, by the people, and for the people. We ought not to forget that.

We constantly make derogatory remarks about what it is, what bad things we do here. ''We pick the pockets of our citizens and throw the money away.'' What nonsense.

This is about saving lives and it is yes or no. That is the way it is. We have an amendment here that tries to strike a compromise. It says to the States we understand you are intelligent people, caring people. We all wept when Oklahoma City saw that terrible explosion. We all shared the grief and the sympathy for the people there. This is a caring body. No matter how our opponents try to paint it, we give a darn about what happens out there. This is not just Big Brother. We are trying to do the right thing. If we disagree we disagree, but it is not hypocrisy and it is not crass politics. It is not any of those things. It is human beings.

When I think about people out there I think of my four children and my two grandchildren and I say God willing, I want to protect them any time I can. So it is with other people's children and grandchildren as well.

Mr. President, we have had a lot of talk about this. Frankly, I hope sense will prevail, we will be able to put up signs that say: Remember, these roads were built for safety at 65 and 55 miles an hour. If it has a chilling effect on the driver's foot on the accelerator pedal it is OK with me. All of us know that few people in this world are exactly tuned in to the speed limit. Mr. President, 65 in most States, whatever the dialect, whatever the intonation, says 75. And when it says 55, it really says 65. So we are kidding ourselves.

We keep hearing from our opponents that we want no speed limits. But they are objecting to the fact that we are saying they ought not remove the speed limit. Removal is OK, as far as the opponents are concerned. But I do not understand what they mean when they say: But that does not mean we simply raise the speed limits willy-nilly. Of course they can. And that is what we would like not to see happen.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Oklahoma controls 3 minutes and 44 seconds.

Mr. NICKLES. Mr. President, we have heard a lot of discussion, primarily on the part of the proponents of the Lautenberg-DeWine amendment, talking about saving lives. I can sincerely say I want to save as many lives as anybody else in this body. I think the States are just as interested, if not more interested, in saving lives than we are in the Federal Government. I know if a person is the Governor of Missouri or the Governor of Montana or Governor of New Jersey, he wants to save lives in his State, probably, maybe more than we do as a collective body. It is very close. It is personal. Those are their constituents.

To be perfectly clear, we are saying the States should make that decision, not the Federal Government. We should not have this Federal mandate.

Some people say if you increase the speed limits—we are not increasing the speed limits. We allow the States to make that decision. If the State of Virginia decides they want to have a uniform rate they can have a uniform rate. If the State of Virginia wants to have it at 55 they can have it at 55. If they want to have it at 40 they can have it at 40. They should have that right. It is a question of who makes that decision, the Federal Government or the State government.

Our forefathers, in the 10th amendment of the Constitution, clearly said all other rights and powers are reserved to the States and to the people. Yet we have this national speed limit. What is right for New Jersey may not be what is right for Oklahoma or Montana or Nevada.

I might mention, too, if you want to be ludicrous—people say we can save lives. You can pass a speed limit and say the national speed limit is going to be 20 miles an hour and you might be able to save 30,000 lives. We have 40,000 fatalities per year. If you set the national speed limit at 15 miles an hour you might not have any fatalities. Maybe some people would not comply with the law. They are not complying with this law.

There is a lot of contempt right now for the law because people are not complying with it. Under the Lautenberg proposal you would have even more contempt because we are telling the States you must post what we think is in your best interests. We are telling you, you must post 55 miles per hour in your areas except for rural interstates and then you can post 65 mph limits. I was the sponsor of the amendment that allowed the States to go to 65. I do not hear anybody saying we should repeal that.

What about lives? If you want to make a real change, come up with an amendment that allows us to set the national speed limit at 30 miles an hour or 20 miles an hour and we will really save lives. At what expense? What loss of freedom? Again, who should be making this decision? That is what the real issue is about, which group will make that decision? Are we going to allow the States to have the decision or are we going to mandate, as under the present law, that the Federal Government makes the decision?

Under the Lautenberg amendment we tell the States you must post national speed limits and we do not care whether you comply with them or not, or enforce them or not. That is going to breed contempt for the law. That makes very little sense. I do not like the States enforcing a national speed limit, but I do not like the Federal Government setting a national speed limit. Those are two things the Federal Government really should not do, and we are going to confuse the situation even further. You must impose limits but not enforce them, so you are going to have contempt for the law. That is the Lautenberg amendment. That makes no sense.

The committee came out with the right approach. The committee said, ''Let us let the States make the decisions. We have confidence in States.'' Many of us have worked in State government. We have many Members of this body who are former Governors who have every bit as much concern over the health and safety of their constituents as we do on the Federal level. Let us allow them to make the decision, as I believe our forefathers would have wanted us to. This should not be mandated by the Federal Government.

So I hope we will give the States that opportunity to set the limits.

I yield the floor.

Mr. LAUTENBERG. Mr. President, just to be sure, I ask how much time we have left?

The PRESIDING OFFICER. The Senator has 2 minutes and 30 seconds.

Mr. LAUTENBERG. I will take 30 seconds and yield 1 minute to my colleague and 1 minute to the Senator from Ohio. I would say, what I have just heard on this floor astounds me. When the Senator from Oklahoma—and I know he means no malice—suggests if we reduce the speed limit enough we could save more lives, in turn what he is saying is that it is not worth keeping it where it is to save the lives that we can save. I wonder whether that message could be delivered in Oklahoma from a platform where a youngster has died on the highway, and say, ''Listen, in the interests of speed and expediency, we had to do it this way.''

I yield the floor. Mr. President, I yield 2 minutes to the distinguished Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, since 1987, when States were allowed to raise the speed limit on rural interstates to 65 miles per hour, Virginia has had a differential speed limit. On rural interstates in Virginia the speed limit was raised to 65 miles per hour for automobiles but at the same time the 55 mile per hour speed limit was retained for commercial vehicles. Based on these 6 years of experience, Virginia determined in the latest session of the general assembly that it was a matter of safety to have vehicles traveling at different speeds. In other words, it did not work.

As a consequence, we went to the consistent speed for both vehicles, and therefore I will have to oppose the Reid amendment. I am, however, in favor of the Lautenberg amendment to maintain a national maximum speed limit for the following reasons:

One-third of all fatal crashes are speed-related.

1,000 people are killed every month in speed-related crashes.

The current level of traffic fatalities at 40,000 people each year is intolerably high. The economic cost of these fatalities does not include the many thousands of people who have suffered serious injury from speed-related crashes.

The economic cost is $24 billion every year, or $44,000 per minute—one-third of which is paid for by tax dollars.

The health care costs of speed-related crashes is $2 billion per year.

Mr. President, some 70 percent of speed-related crashes involve a single vehicle.

Crash severity increases based on the speed at impact, the chances of death or serious injury double for every 10 mph over 50 mph a vehicle travels.

Rural roads account for 40 percent of all vehicle miles traveled but 60 percent of all speed-related fatal crashes.

Police report that in more than one-third of all fatal crashes, the driver exhibited unsafe practices such as speeding, following too closely, improper lane use, unsafe passing, and reckless operations.

IMPACT OF REPEALING THE NATIONAL MAXIMUM SPEED LIMIT

Repealing the NMSL would allow higher limits on noninterstate 55 mph roads. These roads already have a severe speed problem—43 percent of the Nation's speed-related fatalities are on these roads.

Noninterstate roads are not built to interstate standards.

If fatalities on 55 mph noninterstates increased by 30 percent—as occurred on rural interstates where speed limits increased to 65 mph—that would mean 4,750 additional deaths and $15 billion annually.

The National Academy of Sciences estimates that since 1974 compliance with the speed limit has saved between 2,000 and 4,000 lives each year.

Mr. NICKLES. Will the Senator yield to me just to respond?

Mr. LAUTENBERG. I have no time. I have a minute.

Mr. CHAFEE. I yield 20 seconds to the Senator from Oklahoma.

Mr. NICKLES. I thank my friend.

Mr. President, let me state that I have been in Oklahoma and I have been asked repeatedly at community meetings, Should the State set the speed limits, or should the Federal Government set the speed limits? It has been strongly supported that the States should make that decision, not the Federal Government.

Mr. CHAFEE. Mr. President, I support the Lautenberg amendment. And people say this is a States rights issue. I would remind everyone that Medicaid, a Federal program, pays for probably the great majority of the injuries that arise from excessive speed and terrible accidents.

So I hope that we will go forward with the speed limit as suggested by the Senator from New Jersey.

Mr. DEWINE. Mr. President, let me talk for a moment about the enforcement issue. Enforcement has always been local enforcement and State enforcement.

What this amendment is going to do is say, while we have a national standard, Congress is no longer—Washington is no longer—micromanaging the enforcement of it. This has always been local, and it will remain local. Predictions: I have only one prediction that I will make. While we cannot guess how many lives will be lost, the prediction is this: If this amendment does not pass, and if the bill goes into effect as written, the speed limits will go up and more people will die. That is what the facts are. That is what the evidence shows us. That is what history shows us. That is the bottom line of this bill.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 269 Leg.]

YEAS—51

Akaka	Feingold	Lautenberg
Biden	Feinstein	Leahy
Bingaman	Ford	Levin
Bond	Glenn	Lieberman
Boxer	Gorton	Lugar
Bradley	Harkin	Mikulski
Breaux	Hatfield	Moseley-Braun
Bryan	Heflin	Moynihan
Bumpers	Hollings	Murray
Byrd	Inouye	Nunn
Chafee	Jeffords	Pell
Conrad	Johnston	Pryor
Daschle	Kassebaum	Reid
DeWine	Kennedy	Rockefeller
Dodd	Kerrey	Sarbanes
Dorgan	Kerry	Simon
Exon	Kohl	Wellstone

NAYS—49

Abraham	Graham	Packwood
Ashcroft	Gramm	Pressler
Baucus	Grams	Robb
Bennett	Grassley	Roth
Brown	Gregg	Santorum
Burns	Hatch	Shelby
Campbell	Helms	Simpson
Coats	Hutchison	Smith
Cochran	Inhofe	Snowe
Cohen	Kempthorne	Specter
Coverdell	Kyl	Stevens
Craig	Lott	Thomas
D'Amato	Mack	Thompson
Dole	McCain	Thurmond
Domenici	McConnell	Warner
Faircloth	Murkowski	
Frist	Nickles	

So the amendment (No. 1427) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, it is my understanding that the Senate will now proceed to a rollcall vote on the Lautenberg amendment. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have been ordered.

AMENDMENT NO. 1428, AS MODIFIED

Mr. LAUTENBERG. Mr. President, in the unanimous-consent agreement that we had before, it said that I would have an opportunity to send a technical modification of the amendment to the desk, and I do that, and then the vote will take place.

Mr. NICKLES. Mr. President, we have no objection to the modification, and I move to table the Lautenberg amendment, as modified.

The PRESIDING OFFICER. Pursuant to the previous order, the amendment will be so modified.

The amendment, as modified, is as follows:

On page 28, between lines 9 and 10, insert the following:

SEC. 1 . POSTING OF MAXIMUM SPEED LIMITS.

(a) IN GENERAL.—Section 154 of title 23, United States Code (as amended by section 115), is further amended—

(1) by striking the section heading and inserting the following:

"§ 154. National maximum speed limit";

(2) in subsection (b)—

(A) by striking "(b) MOTOR VEHICLE.—In this section, the" and inserting the following:

"(b) DEFINITIONS.—In this section:

"(1) MOTOR VEHICLE.—The"; and

(B) by adding at the end the following:

"(2) PASSENGER VEHICLE.—The term 'passenger vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways (except any vehicle operated exclusively on a rail or rails) that is not a motor vehicle."; and

(3) by adding at the end the following:

"(g) POSTING OF SPEED LIMITS FOR PASSENGER VEHICLES.—The Secretary shall not approve any project under section 106 in any State that has failed to post a speed limit for passenger vehicles in conformance with the speed limits required for approval of a project under subsection (a), except that a State may post a lower speed limit for the vehicles.".

(b) CERTIFICATION.—The first sentence of section 141(a) of title 23, United States Code, is amended by inserting before the period at the end the following: "with respect to motor vehicles, and posting all speed limits on public highways in accordance with section 154(g) with respect to passenger vehicles".

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 154 and inserting the following:

"154. National maximum speed limit.".

Mr. NICKLES. I ask for the yeas and nays.

The PRESIDING OFFICER. The motion to table has been made. 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 lay on the table amendment No. 1428, as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

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

The result was announced—yeas 65, nays 35, as follows:

[Rollcall Vote No. 270 Leg.]

YEAS—65

Abraham	Feingold	Mack
Akaka	Frist	McCain
Ashcroft	Gorton	McConnell
Baucus	Graham	Murkowski
Bennett	Gramm	Nickles
Bingaman	Grams	Nunn
Bond	Grassley	Packwood
Breaux	Gregg	Pressler
Brown	Hatch	Reid
Bryan	Helms	Robb
Burns	Hutchison	Roth
Campbell	Inhofe	Santorum
Coats	Inouye	Shelby
Cochran	Jeffords	Simpson
Cohen	Johnston	Smith
Conrad	Kassebaum	Snowe
Coverdell	Kempthorne	Specter
Craig	Kerry	Stevens
D'Amato	Kyl	Thomas
Dole	Leahy	Thompson
Domenici	Lott	Thurmond
Faircloth	Lugar	

NAYS—35

Biden	Ford	Mikulski
Boxer	Glenn	Moseley-Braun
Bradley	Harkin	Moynihan
Bumpers	Hatfield	Murray
Byrd	Heflin	Pell
Chafee	Hollings	Pryor
Daschle	Kennedy	Rockefeller
DeWine	Kerrey	Sarbanes
Dodd	Kohl	Simon
Dorgan	Lautenberg	Warner
Exon	Levin	Wellstone
Feinstein	Lieberman	

So the motion to lay on the table the amendment (No. 1428), as modified, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. ABRAHAM. Mr. President, I move to lay it on the table.

The motion to lay on the table was agreed to.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until the hour of 2:15.

Thereupon, at 1:01 p.m., the Senate recessed until 2:13 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KYL).

The PRESIDING OFFICER. The Senator from Massachusetts.

THE FOSTER NOMINATION

Mr. KENNEDY. Mr. President, yesterday, the majority leader met with Dr. Henry Foster, President Clinton's nominee for Surgeon General. After that meeting, he proposed a cloture vote on the nomination to take place at some point in the near future.

While I am pleased about this progress, the proposed cloture vote is

only the first step to clearing the way for a real vote on the floor. Supporters and opponents alike who agree that Dr. Foster deserves a vote by the entire Senate, will vote to invoke cloture, so that we can finally give this nomination the fair vote it deserves.

Cloture is a step on the road to fairness, but it is only the first step. I hope that my colleagues will vote to invoke cloture, giving us the opportunity to take the second step—the step that counts—the up-or-down vote on the nomination by the entire Senate.

Throughout this nominations process, several Republicans have stated that, in fairness, the nomination should go before the entire Senate for a final vote. Some Members have suggested that by allowing a cloture vote, the majority leader will be giving the nomination the fair consideration it deserves. They have suggested that a vote on cloture is the same as a vote on the nomination. Obviously, that is not the case.

I believe that some Senators who feel strongly about the issue of fairness intend to vote for cloture, even if they intend to vote against the nomination itself.

Although I disagree with their position on Dr. Foster, they at least agree that it is wrong to filibuster this nomination. They refuse to let a minority of the Senate block the will of the majority.

Dr. Foster is well qualified to be Surgeon General. He has endured this confirmation process with dignity and grace. He has fully and forthrightly answered all the questions raised, and he deserves to be confirmed. And if the Senate treats him fairly, I am confident he will be confirmed.

We all know what is going on here. Republican opponents of a woman's right to choose are filibustering this nomination because Dr. Foster, a distinguished obstetrician and gynecologist, participated in a small number of abortions during his long and brilliant career.

From the beginning, the only real issue in this controversy has been abortion. All the other issues raised against Dr. Foster have disappeared into thin air. They have no substance now, and they have never had any substance. Dr. Foster has dispelled all of those objections, and he has dispelled them beyond a reasonable doubt.

The only remaining question is whether Republicans who support a woman's constitutional right to choose will vote for their principles, or pander to the antiabortion wing of their party by going along with this unconscionable filibuster.

The vote will tell the story. If the Senate is fair to Dr. Henry Foster, this filibuster will be broken, and Dr. Foster will be confirmed as the next Surgeon General of the United States.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I notice the Senator from Rhode Island is on his feet. I was intending to seek unanimous consent to speak for a minute as in morning business.

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

WELFARE REFORM

Mr. DORGAN. Mr. President, many of us are interested in the subject of welfare reform. I have now had an opportunity to hear a discussion of the scheduling that has been proposed for the Senate for the remainder of this week, next week, and in the weeks following the July 4 recess. I would say, as one Member of the Senate, I hope very much that we will see a welfare reform bill brought to the floor of the Senate by the majority party. We are ready, willing, and waiting to debate the welfare reform issue. We have produced, on the minority side, a welfare reform plan that we are proud of, one we think works, one we think will save the taxpayers in this country money, and one that will provide hope and opportunity for those in this country who are down and out and who need a helping hand to get up and off the welfare rolls and onto payrolls.

It is our understanding that the majority party, after having come to the floor for many, many months talking about the need and urgency for welfare reform, and their anxious concern about getting it to the floor, have run into a snag. They are off stride because they apparently cannot reach agreement in their own caucus on what constitutes a workable welfare reform plan that would advance the interests of this country.

We hope very much they find a way in their caucus to resolve their internal problems. Democrats have a welfare reform bill that will work, that is good for this country, and that we are ready to bring to the floor immediately. The question for them, I suppose, is what is wrong with the Republican welfare reform bill?

The problem Democrats see and the reason that we have constructed an alternative is that the welfare reform bill they are talking about, but apparently cannot yet agree on, is that it is not a bill about work. We believe that welfare reform must be more than a helping hand; it must also be about work.

In our bill, we call it Work First. We extend a hand of opportunity to those in need. Those who take advantage of the opportunities that this system gives them also have a responsibility. We will offer a helping hand. We will help you step up and out when you are down and out. You deserve a helping hand. But you have a responsibility in return. Your responsibility is to get involved in a program which will provide the training to lead to a job.

Welfare is not a way of life and cannot be a way of life. People have a responsibility. We are going to require them to meet that responsibility.

A good welfare reform bill is about work. The plan that has been proposed, but apparently not yet agreed to because of internal dissension in the other caucus, the caucus of the majority party, is unfortunately not about work. It is about rhetoric. It is about passing the buck. It is about saying let us send a block grant back to the States with no strings attached. If they require work, that maybe is OK. But they do not require work so their plan is not about work. It is about passing the buck. It is also not really about reform. It hands the States a pile of money and requires nothing, nothing of substance from them in return.

It does not protect kids. As we reform the welfare system, let us understand something about welfare. Two-thirds of the money we spend for welfare in this country is spent for the benefit of kids. No kids in this country should be penalized because they were born in circumstances of poverty. Welfare reform must still protect our children.

Finally, the proposal the majority party is gnashing its teeth about does nothing really to address the fundamental change that helps cause this circumstance of poverty in our country—teen pregnancy and other related issues. Their piece of legislation really takes a pass on those issues. We have to be honest with each other. We have to address the problem of teen pregnancy in a significant way.

The problem of teenage pregnancy is not going to go away. It does relate to poverty and it does relate to circumstances in which children live in poverty. The annual rate of unmarried teen mothers has doubled in this country in just one generation, and it continues to rise. There are a million teen births every year in this country now—1 million teen births, 70 percent of whom are not married. In fact, nearly 1 million children will be born this year who, during their lifetimes, will never learn the identity of their fathers. You cannot call a welfare reform plan true reform if it does not address that issue.

We hope we will soon see legislation on the floor of the Senate that is meaningful welfare reform legislation. Senator DASCHLE, Senator BREAUX, Senator MIKULSKI, and others have helped construct a plan I am proud of—a plan that will work, a plan that says ''work first,'' a plan that will not punish children born in circumstances of poverty.

Now the question is, Where is the welfare debate? It has been postponed. Why? Because the majority party, so anxious to deal with welfare reform, now tells us for one reason or another, it is not on the horizon for the legislative calendar. I think that is a shame. I hope we will see it on the Senate agenda very soon.

Mr. President, if I might take 1 additional minute, not in morning business—on this bill?

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The Senate continued with the consideration of the bill.

OPEN CONTAINERS OF LIQUOR IN VEHICLES

Mr. DORGAN. Mr. President, I intend to return to the floor this afternoon with an amendment. I would like to describe it in no more than 1 minute to my friends in the Senate.

I am going to offer an amendment in the Senate that deals with the issue of open containers of liquor or alcohol in vehicles. We now have in this country 26 States in which it is perfectly legal to have open containers of alcohol as you move down the road. We have six States still remaining—I thought there were more—but there are six States still remaining in which it is perfectly legal in most parts of the State to drink and drive.

In my judgment, no one in this country ought to put the keys to the car in one hand and put them in the ignition and start the engine and wrap the other hand around a fifth of whiskey and start driving down the street. Alcohol and automobiles do not mix.

No one in this country ought to drive down the street in a strange State and not know that there is not another car coming where the people who are in the car, either driving or traveling, are drinking. We ought to have a uniform prohibition against open containers of alcohol in vehicles. It ought to be a national goal to see that happen.

Yesterday, there were eight people killed—six children killed in California, again from a drunk driver in one accident; six children killed, slaughtered on the highways. It is murder. Every 23 minutes in this country, it happens. It has happened to, I will bet, everyone in this Chamber, that someone they know or someone in their family has been killed by a drunk driver. There is no excuse for the States to access the billions of dollars of highway money but then to resist the need to prohibit open containers of alcohol in vehicles all across this country. I intend to offer an amendment on that this afternoon, and I do hope Members of the Senate see fit to support it.

I see the Senator from Louisiana is waiting. Let me at this moment yield the floor.

WELFARE REFORM

Mr. BREAUX. Mr. President, let me applaud the Senator from North Dakota for his comments and his statement on the open-container legislation but particularly on the remarks that he just made about the welfare reform debate that is now underway in this country and, hopefully, soon to be underway in the U.S. Senate.

I really believe that welfare reform should not be a partisan issue. I think it is clear that, if we make it a partisan issue, we will not get anything done. We as members of the minority party do not have enough votes to pass a welfare reform bill without our Republican colleagues' participation. I would suggest to my Republican colleagues that they do not have sufficient votes to pass Republican-only welfare reform without the participation of Democrats, certainly not one that can be signed into law or perhaps even one that can pass the Senate.

So I think it is certainly clear that we have to work together if we are going to get anything done. To insist on a political issue is insisting on failure as far as welfare reform is concerned. We as Democrats have worked very hard to come up with a bill that makes sense, that is true reform, that recognizes that the problem is big enough for the States and the local governments to work together in order to solve the problem. It is not a question of whether the Federal Government should solve it or the States should solve it. The real answer is the Federal Government and the States and local governments have to work together if welfare reform is ever to occur. It will not be done just by the States or just by the Federal Government.

So those who argue that we should give all of the problems to the States I would suggest miss the real solution to this very large problem. I have called the so-called block grant approach analogous to putting all the welfare problems in a box and shipping that box to the States and saying, Here. It is yours. And when the States open up that box they are going to see a whole lot of problems and not enough money to solve those problems. That is not reform. That is shirking the responsibility that we have as legislators who raise the money for welfare in this country. To just shift the problems to the States is not reform. It does not solve anything. It just says that we are so confused and we are so incapable of coming up with a solution that we are going to send the problem to the States, and maybe they will not resolve the problem.

The States are starting to recognize and the mayors of this country are starting to realize that the plan that has been reported out of the Senate Finance Committee by the Republican majority will freeze the amount of money available to the States at the 1994 level for 5 years and will tell all of the States that you are going to get the same thing you got in 1994. If you are a fast-growing western State or a low-income State like mine in the South, you are going to be frozen at the 1994 levels and not take into consideration any growth and people moving to your State or any increase in poverty problems that may occur in your State. That makes no sense whatsoever, and it certainly is not real reform.

The Republican plan, in addition, says that for the first time we are going to break the joint Federal-State partnership. We are going to tell the States you do not have to spend any money on it if you do not want to. You can take the money that you were spending on welfare reform and you can use it to build bridges or build roads or to give everybody in your State a salary increase if you would like to use it for that purpose.

Where is the partnership? Where is the sense of those States and Federal officials working together to solve the problem?

In addition, it is not reform if you are weak on work and tough on kids. One of the deficiencies I see in the Republican plan is that it says we are going to measure the success of the plan based on how many people get put into programs. That is the last thing we should measure our success by in welfare reform. The real solution to welfare is the standard by which reform must be judged, not how many people we put in programs, but how many people we are able to put into jobs. Our suggestion is that we should measure the success and reward States that put people in private sector jobs, not by putting people in more programs run by bureaucrats.

The bottom line on all of this is that I am calling for our colleagues on the Republican side to be willing to join with us in a bipartisan fashion to craft a welfare reform bill that does not focus on which party benefits but whether we can jointly find long-term solutions. It is clear, if we continue on the present track, that what we will have done is to produce perhaps short-term political gains but long-term guaranteed failures for the people of this country.

Why should we be afraid to meet together and talk about this problem and come up with solutions that are bipartisan in nature?

I think what we have crafted makes sense. I think it is a good plan. It is not to say that it cannot be modified or improved. We are willing to listen to our colleagues' suggestions in this particular area. It is clear, in my opinion, that the only way we come up with welfare reform that is real reform is to do it in a bipartisan fashion, and I would suggest that is something that the American people want us to do. If we do that, there would be enough political credit for everyone. If we fail to do that, there will be more than enough blame to go around. And this should be something that we do as quickly as possible.

Mr. President, I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I ask for 2 minutes as if in morning business.

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

WELFARE REFORM

Mr. FORD. Mr. President, let me associate myself with the language and the words of my distinguished friend

from Louisiana. Having been a Governor, I understand what the Federal Government can do to you or for you.

What we are trying to do now is to dump this problem off onto the States. It is the biggest unfunded mandate that I have seen in all the time I have been here. Just send the package down there minus 20 or 30 percent and say we have cut the budget and we sent all our problems to the States. The States now can do whatever they want to. And I can see a Governor out there having an opportunity to use some of this money that would be very politically helpful to him or to her. The welfare and the welfare program in the various and sundry States would not be helped.

This is a question that everybody has read. People want welfare reform. They want it done sooner than later. But the idea of sooner, of just saying we are going to send it all down to the States and we are going to cut 20 to 30 percent of the funding and let the States have at it, I think, is the wrong attitude.

We all need to sit down because I think all of us, both Democrat and Republican, would like to come up with a reasonable solution to welfare reform. If we can do that, that will be, I think, a star in the crown of the 104th Congress.

I urge my colleagues to sit down with us and try to work out something that would be acceptable. I think we have a good package. If it is passed, I think it would be helpful to the future. There would be other good ideas. So let us put them in the same basket.

I thank the Chair.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The Senate resumed with the consideration of the bill.

PRIVILEGE OF THE FLOOR

Mr. CHAFEE. Mr. President, I ask unanimous consent that Erica Gumm, an intern from Senator DOMENICI's office, be granted floor privileges during the Senate's consideration of S. 440, the highway bill.

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

AMENDMENT NO. 1432

Mr. CHAFEE. Mr. President, on behalf of Senator INHOFE, 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 Rhode Island [Mr. CHAFEE], for Mr. INHOFE, proposes an amendment numbered 1432.

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

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

The amendment is as follows:

At the appropriate place, insert:

SEC. . QUALITY THROUGH COMPETITION.

(a) CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.—Section 112(b)(2) title 23. United States Code, is amended by adding at the end the following new subparagraphs:

''(C) PERFORMANCE AND AUDITS.—Any contract or subcontract awarded in accordance with subparagraph (A), whether funded in whole or in part with Federal-aid highway funds, shall be performed and audited in compliance with cost principles contained in the Federal acquisition regulations of part 31 of the Code of Federal Regulations.

''(D) INDIRECT COST RATES.—In lieu of performing its own audits, a recipient of funds under a contract or subcontract awarded in accordance with subparagraph (A) shall accept indirect cost rates established in accordance with the Federal acquisition regulations for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute. Once a firm's indirect costs rates are accepted, the recipient of such funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or de facto ceilings of any kind. A recipient of such funds requesting or using the cost and rare data described in this subparagraph shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to an other firm or to any government agency which is not part of the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

''(E) EFFECTIVE DATE/STATE OPTION.—Subparagraphs (C) and (D) shall take effect upon the date of enactment of this Act, provided, however, that if a State, during the first regular session of the State legislature convening after the date of enactment of this Act, adopts by statute an alternative process intended to promote engineering and design quality, reduce life-cycle costs, and ensure maximum competition by professional companies of all sizes providing engineering and design services, such subparagraph shall not apply in that State.''

Mr. CHAFEE. Mr. President, this amendment by the Senator from Oklahoma would require that any contract awarded with Federal aid funds accept overhead rates established in accordance with Federal acquisition rules. We are currently in a situation where we have duplication on the audits on these highway situations. The amendment of the Senator from Oklahoma would provide that the Federal System would prevail as to what is proper overhead rates.

So, Mr. President, this is an amendment that has been cleared with the Democratic side. I believe it is acceptable to all.

Mr. BAUCUS. Mr. President, I have looked at the amendment. I have examined it. I support it. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Oklahoma.

So the amendment (No. 1432) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1433

(Purpose: To clarify the intent of Congress with respect to the Federal share applicable to a project for the construction, reconstruction, or improvement of an economic growth center development highway on the Federal-aid primary, urban, or secondary system)

Mr. CHAFEE. Mr. President, on behalf of Senators JEFFORDS and LEAHY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. JEFFORDS, for himself and Mr. LEAHY, proposes an amendment numbered 1433.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . FEDERAL SHARE FOR ECONOMIC GROWTH CENTER DEVELOPMENT HIGHWAYS.

Section 1021(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) (as amended by section 417 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (Public Law 102–388; 106 Stat. 1565)) is amended—

(1) in paragraph (2), by striking ''and'' at the end and inserting ''or''; and

(2) in paragraph (3), by striking ''section 143 of title 23'' and inserting ''a project for the construction, reconstruction, or improvement of a development highway on a Federal-aid system, as described in section 103 of such title (as in effect on the day before the date of enactment of this Act) (other than the Interstate System), under section 143 of such title''.

Mr. JEFFORDS. Mr. President, this amendment is a technical correction to the current law regarding highways in Economic Growth Centers [EGC]. The amendment simply allows programs already approved for EGC funding to continue to receive this level of support.

The EGC program was authorized by title 23, United States Code [USC], section 143, for projects on the Federal-aid systems other than the Interstate System. Under 23 USC 120(k), the Federal share for EGC projects financed with regular Federal-aid funds were 95 percent. However, in 1991, Congress passed the Intermodal Surface Transportation Efficiency Act [ISTEA], which eliminated the Federal-aid systems and replaced it with National Highway System, which we are debating today. In

addition, ISTEA eliminated 23 USC 120(K).

During debate over the Department of Transportation's Appropriations Act of 1993 my amendment to restore the 95 percent Federal funding ratio for previously approved EGC projects was accepted. However, because of the change ISTEA made in referring to Federal-aid systems, the amendment, as interpreted by the Department of Transportation, did not apply.

The amendment I am offering today will grandfather those EGC projects that have already been approved for EGC ratio funding. My understanding is that there are roughly 19 projects in the State of Vermont, all located in the Barre/Montpelier area or in Burlington.

In discussions with the Department of Transportation, we have been assured that this language will guarantee 95 percent Federal funding for these few EGC projects in Vermont.

Mr. LEAHY. Mr. President, I rise today to speak on behalf of a small program that has a large impact in my home State of Vermont. Federal economic growth centers are designated by Vermont's Agency of Transportation as areas that receive Federal funds with a reduced local matching requirement.

This program allows various small communities in Vermont to upgrade roads, sidewalks, and bridges that would otherwise be unaffordable. Most transportation projects are funded with an 80-percent Federal share, and a 20-percent State and local share. Economic growth centers are funded with a 95-percent Federal share, a 3-percent State share, and a 2-percent local share. This low local contribution allows communities such as Barre, VT, to undertake the North Main Street project, which upgrade roads, improve pedestrian facilities, handicapped accessibility, and enhance traffic signals.

Today there are 18 other similar projects across my State that are either receiving EGC funding or are scheduled to. From Burlington to Rutland, this program benefits Vermont.

However, if the National Highway System bill is approved in its current form, then many of these Vermont projects will revert to the less generous Federal funding formula. This would be disastrous for projects like the one in Barre. That is why I am offering an amendment with Senator JEFFORDS that maintains the current funding status. I urge its adoption.

Mr. CHAFEE. Mr. President, this Jeffords-Leahy amendment deals with economic growth center cost sharing. This amendment is a technical correction which amends title 23 by striking the words ''Federal-aid system'' each place they appear and inserting the words ''Federal-aid highways.'' Section 143 of ISTEA contains outdated language referring to the Federal-aid system which ISTEA failed to amend. The term ''Federal-aid system'' limits use of the 95 percent Federal share and 5 percent State share to economic growth projects on the National Highway System.

Mr. President, this amendment has been cleared with the other side, and I believe it is acceptable to all.

Mr. BAUCUS. Mr. President, as the distinguished chairman mentioned, this is a technical amendment. It clarifies that the Federal share be applied to economic growth centers. We urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1433) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1434

(Purpose: To permit the full implementation of a border city agreement by exempting vehicles using certain routes between Sioux City, IA, and the borders between Iowa and South Dakota and between Iowa and Nebraska from the overall gross weight limitation applicable to vehicles using the Interstate System and by permitting longer combination vehicles on the routes)

Mr. BAUCUS. Mr. President, I have an amendment which I offer on behalf of the distinguished minority leader, Senator DASCHLE, Senator HARKIN, and Senator KERREY. It would allow South Dakota, Nebraska, and Iowa to update what are called border city agreements. These were agreements that were first reached in early 1970's allowing certain trucks from North Dakota and Nebraska to travel on a 3- to 5-mile stretch of interstate highway to enter Sioux City, IA.

Due to restrictions on weight and truck configurations in the current Federal law, however, Iowa is no longer allowed to honor existing agreements or to enter into new updated ones. This amendment does not require any State to change its current policies. Rather, it waives the Federal provisions that prevent these States from entering into agreements they consider to be in their mutual best interests.

I see no reason to oppose this amendment, Mr. President. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. DASCHLE, for himself, Mr. HARKIN, and Mr. KERREY, proposes an amendment numbered 1434.

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

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

The amendment is as follows:

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

SEC. 1 . VEHICLE WEIGHT AND LONGER COMBINATION VEHICLES EXEMPTION FOR SIOUX CITY, IOWA.

(a) VEHICLE WEIGHT LIMITATIONS.—The proviso in the second sentence of section 127(a) of title 23, United States Code, is amended by striking ''except for those'' and inserting the following: ''except for vehicles using Interstate 29 between Sioux City, Iowa, and the border between Iowa and South Dakota and vehicles using Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska, and except for''.

(b) LONGER COMBINATION VEHICLES.—Section 127(d)(1) of title 23, United States Code, is amended by adding at the end the following:

''(F) IOWA.—In addition to vehicles that the State of Iowa may continue to allow to be operated under subparagraph (A), the State of Iowa may allow longer combination vehicles that were not in actual operation on June 1, 1991, to be operated on Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota and Interstate 129 between Sioux City, Iowa, and the border between Iowa and Nebraska.''

Mr. BAUCUS. Mr. President, this is the amendment I just described. I think it has been agreed to by the majority side. I urge its adoption.

Mr. CHAFEE. Mr. President, the distinguished ranking member of the committee is exactly right. This amendment permits Iowa to continue allowing bigger and heavier trucks coming from South Dakota and Nebraska to enter Sioux City, IA, on I–29 and I–129, even though these trucks are bigger than are permitted on the general highways of Iowa. This has been cleared and has the approval of the Senators from Iowa. Apparently, Sioux City, IA, is just over the border in some fashion so that the trucks from South Dakota pull in there.

So, Mr. President, indeed, it has been cleared by this side.

Mr. DASCHLE. Mr. President, this amendment is offered on behalf of Senators from the three States affected by it: the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], and myself.

This amendment repairs a breakdown in Federal highway laws that prevents the free flow of trade between our three Midwestern States, allowing South Dakota, Nebraska, and Iowa to update border city agreements that were first reached in the early 1970's. These agreements allow certain trucks from South Dakota and Nebraska to travel on a 3- to 5-mile stretch of interstate highway to enter Sioux City, IA.

Due to restrictions on weight and truck configurations in current Federal law, Iowa is no longer allowed to honor existing agreements or to enter into new, updated ones. These Federal policies impede the flow of interstate commerce between our States.

The governments of each of our three States support the approach taken in this amendment to free up the open market for trade with each other. Yet, the U.S. Department of Transportation has indicated that it does not have the authority under the law to waive Federal restrictions, even though it may be appropriate to do so.

Our amendment does not require any State to change its current policies. Rather, it waives Federal restrictions that prevent these States from entering into agreements they consider to be in their mutual best interest.

Businesses in all three States have paid the price since the border city agreements were disrupted by Federal regulation. One example is the movement of livestock into Sioux City, IA, stockyards from Nebraska and South Dakota. Vehicles that exceed Iowa's legal weight limit of 80,000 pounds must either light-load their vehicles or truck their livestock to terminals farther away. This increases the costs for ranchers and hurts the Sioux City stockyards.

In addition, longer combination vehicles that are permitted to operate in South Dakota but not in Iowa cannot cross State lines for the short trip to the Sioux City stockyards. They are instead forced to uncouple and leave part of their load at the South Dakota border, only to later return and make another trip to complete delivery to Sioux City.

The Daschle-Harkin-Kerrey amendment would permit our States to update their border city agreements. It places a simple waiver in statute so that trucks can once again travel unimpeded from the Siouxland tristate area into Sioux City, IA.

This problem stems from Federal regulations that require most States to prohibit divisible loads with a gross weight limit in excess of 80,000 pounds on interstate highways. States that authorized heavier loads in effect in 1956 were grandfathered, or allowed to keep those rights.

While Iowa did not allow heavier loads in 1956, South Dakota and Nebraska did. This was not a problem, however, because border city agreements were reached in the area that allowed for heavier trucks from South Dakota and Nebraska to drive into Sioux City.

The ISTEA of 1991 added a similar restriction on longer combination vehicles that contained a grandfather clause that did not take into account these border city agreements.

The Federal Government should not disrupt the free flow of trade between these States. The State legislatures in both South Dakota and Iowa approved resolutions calling on Congress to correct this problem. These agreements are supported by the departments of transportation in all three States. The U.S. Department of Transportation does not oppose restoring these agreements—it simply claims to lack the authority to do so.

Mr. President, our amendment addresses a classic example of Federal overregulation of business. It corrects the kind of problem that makes people fed up with the Federal Government, and we should correct it today. Truly, the Federal Government was established in 1789 to promote commerce among the States, not to impede it. This amendment is needed to provide a commonsense solution to a real problem, and to restore public confidence in our ability to reduce overregulation.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1434) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1435

(Purpose: To revise the authority for a congestion relief project in California.)

Mr. BAUCUS. Mr. President, I have another amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mrs. BOXER, proposes an amendment numbered 1435.

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

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

The amendment is as follows:

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

SEC. 1 . REVISION OF AUTHORITY FOR CONGESTION RELIEF PROJECT IN CALIFORNIA.

Item I of the table in section 1104(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2029) is amended by striking ''Construction of HOV Lanes on I–710'' and inserting ''Construction of automobile and truck separation lanes at the southern terminus of I–710''.

Mr. BAUCUS. Mr. President, this is another technical amendment. This one clarifies that the State of California use previously authorized funds for construction of automobile-truck separation lines. This is a very technical amendment. I do not think it needs further explanation. I urge the Senate to agree to it.

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

Mr. CHAFEE. Mr. President, the Senator from Montana is exactly right. It has the approval of those on this side. We are supportive of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1435) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1436

(Purpose: To provide that if a certain route in Wisconsin is designated as part of the Interstate System, certain vehicle weight limitations shall not apply)

Mr. BAUCUS. Mr. President, I send an amendment to the desk on behalf of Senator KOHL of Wisconsin, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. KOHL, proposes an amendment numbered 1436.

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

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

The amendment is as follows:

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

SEC. 1. APPLICABILITY OF CERTAIN VEHICLE WEIGHT LIMITATIONS IN WISCONSIN.

Section 127 of title 23, United States Code, is amended by adding at the end the following:

''(f) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON CERTAIN WISCONSIN HIGHWAYS.—If the 104-mile portion of Wisconsin State Route 78 and United States Route 51 between interstate Route 94 near Portage, Wisconsin, and Wisconsin State Route 29 south of Wausau, Wisconsin, is designated as part of the Interstate System under section 139(a), the single axle weight, tandem axle weight, gross vehicle weight, and bridge formula limits set forth in subsection (a) shall not apply to the 104-mile portion with respect to the operation of any vehicle that could legally operate on the 104-mile portion before the date of enactment of this subsection.''.

Mr. KOHL. Mr. President, I rise today to offer a brief explanation of the amendment offered on my behalf by my colleague, Senator BAUCUS. The amendment that was accepted by the managers of the bill addresses a problem that is critical to north central Wisconsin, but it does so in a way that does not upset the balance and symmetry of this important piece of legislation.

Specifically, my amendment relates to a 104-mile portion of U.S. Highway 51—also known as Wisconsin State Highway 78. Highway 51 connects population centers and industries located in north central Wisconsin with markets to the south. Wisconsin has recently completed the improvements necessary to bring Highway 51 up to interstate standards, and interstate shields will soon be erected.

However, a Federal exemption to insert weight requirements is required to allow continued operation of overweight commercial vehicles that currently use Highway 51. Overweight vehicles currently operate on this stretch

of highway under State permits, but they would be forced off the road once the highway is designated as an interstate.

U.S. 51 is the only four lane north-south road serving this area. All other roads are secondary two lane State highways. Forcing large trucks onto these narrower—and more winding—secondary roads raises greater safety—and durability—concerns. The secondary roads that would be affected are small country roads that have never had large truck traffic. Who knows what sort of damage these huge vehicles could do?

Highway 51 has handled large truck traffic safely and efficiently for many years and a weight exemption would allow continued use of this safe and efficient route.

The weight exemption is also critical to a number of industries that contribute to the continued economic development of north central Wisconsin, including the manufacturing, pulp and paper, farming, food processing, dairy, livestock, refuse, garbage, recycling, and coal industries. Many Wisconsin communities and businesses, both small and large, will benefit from the adoption of this amendment.

Mr. President, before I yield the floor I would like to thank the bill managers—chairman CHAFEE and Senator MOYNIHAN—for their assistance and consideration. Let me also express my gratitude to Senator BAUCUS for his advice and assistance in offering the amendment. Finally, I thank my good colleague from New Jersey—Senator LAUTENBERG—for his guidance in this matter. Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, this amendment, offered by the Senator from Wisconsin [Mr. KOHL], would grandfather the current truck size and weight limitations on a segment of a Wisconsin highway that will shortly become part of the interstate system.

We have done this in a couple of other parts of our country. It is only appropriate that this section of interstate highway in Wisconsin also receive the same treatment.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, this side supports the amendment. I had a call from the Governor of Wisconsin yesterday in support of the amendment, and there is no objection to it, that I know of, on this side.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1436) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator is recognized.

Mr. INHOFE. Mr. President, I guess this is for the purpose of an inquiry. It is my understanding that the amendment we had that would change the procedure and offer more latitude in terms of avoiding duplication in preaward audits has already been taken up.

Mr. CHAFEE. The Senator is correct, his amendment went flying through.

Mr. INHOFE. I thank the Senator very much. I yield the floor.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 1437

Mr. SMITH. Mr. President, I have an amendment, which I send 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 Hampshire [Mr. SMITH], for himself, Mr. GREGG, Ms. SNOWE, Mr. CAMPBELL, Mr. KEMPTHORNE, and Mr. THOMAS, proposes an amendment numbered 1437.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . ELIMINATION OF PENALTIES FOR NONCOMPLIANCE WITH MOTORCYCLE HELMET AND AUTOMOBILE SAFETY BELT REQUIREMENTS.

Section 153 of title 23, United States Code, is amended—

(1) by striking out subsection (h); and

(2) by redesignating subsections (i) through (k) as subsections (h) through (j), respectively.

Mr. SMITH. Mr. President, section 153 of the Intermodal Surface Transportation Efficiency Act, better known by the acronym ISTEA, penalizes States that refuse to enact mandatory motorcycle helmet and automobile seatbelt laws. In other words, if a State chooses not to enact a mandatory seatbelt or mandatory motorcycle helmet law, they are penalized and they are penalized very substantially.

The amendment that I am offering, along with Senators GREGG, SNOWE, CAMPBELL, KEMPTHORNE and THOMAS would simply repeal the penalties on the States. It does not affect any State that has already adopted these laws. It does not interfere with that in any way. It has no effect on any State whatsoever that has adopted a mandatory helmet or seatbelt law.

But what it does do is repeal the penalty on any State that has not enacted such a mandatory use for its riders, either in automobiles or on motorcycles. So, again, lest the debate get misdirected, this does not affect any State law whatsoever.

This section of current law sanctions States, or penalizes States, that do not enact mandatory motorcycle helmet and seatbelt laws by—this is how it is done—diverting scarce highway maintenance and construction funds to their safety funds, even if that does not make any sense to do because they are already spending money into safety programs.

So, in other words, the penalties are assessed regardless of whether your State already has a safety program that is adequately funded toward both helmet and seatbelt usage, irrespective of your State's safety record. So if your State spends more than an adequate amount on training, on safety for the use of seatbelts and/or helmets, has a good safety record, it still gets penalized because it does not have a mandated helmet or seatbelt law. In fact, 28 States suffered this penalty, this current fiscal year.

Twenty-five States will suffer a doubling of this penalty, come October. In the State of New Hampshire, for example, we were penalized nearly $800,000 this year. That will double to $1.6 million next year. That is almost $1 for every man, woman, and child in the State of New Hampshire.

Nationally, this penalty translates into $48 million not spent on needed highway improvements this year, and $97 million that will not be spent next year and every year thereafter.

I think it is fiscal blackmail. If we look at the list of these States and look down the list, in many cases, the penalties double. They are very substantial. Some run as high as over $4 million. For example, in the State of Ohio, the current penalty is $4.6 million and that doubles to over $9 million in 1996.

I would just ask a question. In this era of where we are trying to provide for more States rights, more individual freedom, why would we want to penalize a State by taking away several million dollars—$97 million in total of all the States, $800,000 in New Hampshire, $9 million in Ohio, to use two examples. Why would we want to do that and insist they spend money for safety, or not get the money at all, when they already have the safety program that is necessary?

A person might say, it would be reasonable to allow those States to spend and to fix roads, to repair potholes, to repair bridges. That might be worth the effort. That is true. But that is too reasonable. That does not happen. If they do not spend it on the safety programs that they do not need, they do not get the money, and they are penalized.

Mr. President, I am not here to debate the merits of whether you wear a seatbelt or a motorcycle helmet. I do not ride a motorcycle. One of my colleagues does and he will be speaking to that in a moment. I do wear a seatbelt. That is my choice.

In fact, I am a strong supporter about educating the public on the benefits of wearing a seatbelt and a motorcycle helmet. The State of New Hampshire already requires seatbelt usage for

children up to 12 and motorcycle helmets for passengers up to 16 years old. The sanctions still apply, unless the State has a mandatory law for everyone.

The argument has been made that taxpayers should be concerned about the amount of money spent on Medicare and Medicaid for injuries related to motorcycle accidents. This argument assumes a higher percentage of motorcycle riders are covered by Medicaid than the average citizen. I know Senator CAMPBELL will speak to that shortly.

I would just say at this point that is not true. On average, motorcycle riders have no great reliance on Medicaid than anybody else. I think that is a misnomer.

Furthermore, I would be happy to join any of my colleagues who are interested in reforming Medicare and Medicaid programs in order to save the taxpayers' dollars and maintain their solvency for future generations. I do not think that is the issue.

The administration has tried to make a case for maintaining the sanctions for the benefit of society and taxpayers. What next? Will we decide that convertible cars are more dangerous and therefore we should ban them? Should small cars such as Miatas or Alfa Romeos be banned because they are less safe in accidents than, say, a pickup truck or a van? Should the Federal Government limit Medicare and Medicaid to individuals who smoke? Who are police officers? Who are firemen? Bridge builders? Window washers? Should we limit Medicare and Medicaid to those people that lead a riskier life? I do not think so.

All we are talking about here is a person's voluntary right to wear a seatbelt, and voluntary right to wear a helmet. Maybe I am exaggerating to make a point which is how far should the Federal Government be allowed to reach into people's lives, or tell States what laws they will have on their books?

Frankly, this could cost lives, Mr. President. If we took the State of New Hampshire, the $800,000—and the Senator who is sitting in the chair at the moment, my colleague from New Hampshire, knows full well some of the rural roads we have in our States are full of potholes, and $800,000 could fix a lot of them.

Now, how many accidents happen because somebody loses control of an automobile, hitting a bad pothole or hitting some other portion of a road that needs repair? The truth of the matter is that New Hampshire cannot spend that $800,000 on the pothole repairs, because they have to use the $800,000 to create additional personnel for safety that they do not need because they already have an adequate safety program, more than adequate, more than the demand even calls for.

The whole thing is ridiculous. Again, it is the paternalistic attitude of Big Brother.

The real issue is whether Washington's micromanagement, of what should be dealt with at the State and local level, should continue. That is the issue. States should have the flexibility to devote the highway funds where they think they make the most sense, whether it be protecting public safety by improving those roads and bridges and traffic flow or through highway education. Frankly, in most cases, it is both. Let the States make that determination.

In fact, in the State of New Hampshire, which does not have a mandatory helmet or a seatbelt law, it has one of the best highway records in the Nation. One of the most safe, as far as fatalities per million miles traveled.

The New Hampshire legislature recognizes the need for improving motorcycle safety, and as a result, the Motorcycle Rider Education Program was enacted in 1989. Since then, more than 4,000 riders have gone through the program.

Educational programs like this certainly play an important role in increasing highway safety, and I believe the States have the expertise and know-how to develop their own programs, thank you, without the Federal intimidation or Federal intervention or Federal heavy hand. States will say they are in a better position to address safety concerns. They are.

During a hearing in the Environment and Public Works Committee, we received testimony from such States as Florida, Idaho, Montana, South Dakota, New Hampshire, and Wyoming, all with the same message: Let the States decide how to address highway safety. They all oppose the use of Federal sanctions to pressure States to enact laws against their will.

Furthermore, dictating how States spend their highway funds infringes on their ability to control their own budgets, resulting sometimes in misdirected and wasted resources.

Let me just give an illustration. Our New Hampshire highway safety coordinator has complained as a result of the mandated transfer of funds to his existing $550,000 budget, he has more money than he knows what to do with. He cannot spend it for safety. More there than he needs. It is hard to imagine that a government official is actually complaining about having too much money, but we are pretty independent in New Hampshire. Frankly, we tend to tell the truth when the truth needs to be told.

That is the reality. They do not want to go out and create another level of bureaucracy in the safety department in the New Hampshire Highway Department because they do not need it. Not because they do not care about safety, not because they do not want to promote safety, but because they do promote safety adequately and they want the funds to go into repairs.

Scarce resources could end up being wasted in these education projects while a section of the road falls in disrepair and somebody loses a life as a result of a pothole or some other urgent need.

It does not make any sense, which is why this constant dictating at the Federal level causes problems with our States and with our citizens.

It is this kind of action by the Federal Government that brought our Governors and our local officials to a state of rebellion, frankly, and led to this year's enactment of the unfunded mandates relief bill, one of the first pieces of legislation passed in this Congress.

Last year, the American people also voted for great local control and for relief from heavy-handed Federal mandates. With that in mind, let me conclude for the moment on this point, Mr. President. We should continue the trend of ridding this Washington-knows-best attitude around here, and allow our States, governments, communities, to make the kinds of decisions that they need to make for themselves. A vote for this amendment does not cure everything, but it is a step in the right direction.

I will point out before my critics point it out, we are not about to say here, by passing this amendment, that we are not in favor of safety, that we want people to go out on the motorcycles and not wear helmets and injure themselves and be wards of the State for the rest of their lives, or we want people to go out and not wear seatbelts and cause permanent injuries to themselves.

What we are saying is, we have adequate safety programs in our States, education programs, that indicate to these people that it is unsafe, that it would be better to use a seatbelt and to use a helmet. But if you choose not to, if you choose not to, that is your decision. Your State should not be punished by not receiving dollars that could be used to repair roads and bridges, which is the purpose of the legislation in the first place.

I know my colleagues here wish to speak. At this time I will yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I rise also in support of the amendment proposed by my friend and colleague, Senator Smith. This legislation will provide for a full repeal of the financial penalties established under the Intermodal Surface Transportation Act of 1991 and will provide relief to the 25 States, as he has mentioned.

There are, as my colleagues know, probably going to be three amendments, depending on how the vote goes on the SMITH amendment. But I am just going to make some general statements. If we go on to the next amendments, I will make some others dealing specifically with helmets. But this is not only a burdensome Federal mandate placed on the backs of State legislatures but also an erosion of States rights.

This amendment, by the way, does not require States to repeal any mandatory laws they now have in effect, not seatbelt laws or helmet laws. Strictly speaking, 25 States have refused to be blackmailed by the Federal Government. They have refused to comply with the Federal mandates. In accordance with ISTEA, they are required to transfer very scarce transportation and construction dollars to section 402 safety programs. This shift forces States to spend 10 to 20 times the amount they are currently spending on section 402 safety programs.

As Senator SMITH mentioned, it is money that is not even needed in one program and is badly needed in another, yet they are forced to transfer it from one to another. These penalties are assessed regardless of whether the State already has the funds dedicated to safety programs or not.

This year, these States had to divert 1.5 percent of their Federal highway funding to safety programs. This transfer affects the National Highway System, the Surface Transportation Program, and the Congestion Mitigation and Air Quality Improvement Program. Those States which did not enact seatbelt or helmet laws by September 30, 1994, are required to shift 3 percent of their Federal highway funds from these important programs into safety.

This year $48 million will not be spent on highways and bridges because of this section 153, as Senator SMITH has mentioned. Clearly, this is a punitive action by the Federal Government against States. The amendment Senator SMITH offers repeals that section.

I, like many people, believe the Federal Government has blackmailed States long enough and forced them to pass laws which may or may not be in the best interests of their citizens but certainly has taken away the right for them to choose what is best for them in their own States, in sort of a one-case-fits-all scenario.

It should not be a question of whether you should or should not wear helmets or whether you should or should not wear seatbelts. The question is who decides, you or the people in your State as elected legislators? Or the Federal Government, which is far removed from many of the people who have to comply with these laws?

The question is, What level of Government regulations becomes too absurd? In my view, that mandate has already reached that point. When the Federal Government starts requiring what you wear for some recreational pursuits, as it is now doing, it has gone too far.

Let us just say for the sake of argument that those on the other side of the issue are right, that in fact seatbelts and motorcycle helmets make people safer. You can find many personal accounts to support either side of the issue. There is no question about that. But clearly neither one prevents accidents. Does that give the Federal Government the right to force people to wear them? Most people agree that too much exposure to the Sun can cause cancer. Should the Federal Government require all sunbathers to wear sunscreen and threaten the States with withholding Federal money in case people get cancer?

I might also say I come from a State where over a million Americans ski, the State of Colorado. It is a big industry. I would like to point out we have had about five skiers killed on the slopes of Colorado this year. None of them was wearing a helmet. I am a skier and I tell you I would be concerned if the Federal Government decided here in Washington to require everybody who skis to wear a helmet. I think we see the same kind of general direction taken for people riding bicycles or horses or young people who use skateboards or rollerblades. Should we have a Government that dictates what you can wear and what you cannot with your recreation?

There is a thing called a public burden theory that often people use to defend the use of seatbelts and helmets, too. That public burden theory says if you are injured and do not have an insurance policy and do not have the money to pay for your hospitalization, then you become kind of a ward of the Government. That money has to be taken from the taxpayers to provide for your medical services.

There is no study I know of in the United States that says people who do not wear helmets become public burdens any more than anyone else, skiers or bicyclists or rollerbladers or ski boarders or anyone else. When you talk about the public burden I think you can use the same logic for anyone. There is an element of risk in any form of recreation. The question is how many individual rights do we take away in the name of the public burden theory?

In my view, the helmet law mandate has reached that point. We have talked on the floor many times this session about Federal mandates. I think if the voting public said anything to us last fall, it was to relieve them of some of the unfunded mandates, some of the things the Federal Government requires without setting the finances to implement the requirement. The last election certainly was about that.

While it can be argued that mandating these things may be good for American citizens, is it right to have the Federal Government intrude in our lives to that extent? And, where do we draw the line?

In closing, I strongly encourage my colleagues to support the amendment of Senator SMITH and I yield the floor.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I am very pleased to be able to join Senator SMITH as well as Senator CAMPBELL in support of this amendment. I commend Senator SMITH for offering it because I do think it underscores a very important point. In fact, as I recall, this Congress and this Senate, when we began in January, the very first issue we addressed was banning unfunded Federal mandates. I cannot think of another issue that represents unfunded mandates more than the one we are currently addressing with this legislation that would take away the mandate on States to enact mandatory seatbelt and helmet laws, and, if they do not, they are penalized by losing 1.5 percent of their transportation funds in 1995 and 3 percent in 1996.

What is unprecedented about that approach, and something that I certainly object to, is saying that States are going to lose existing transportation funds, which will happen this October, if they do not enact both laws. It is not saying if the States enact these laws we will give you additional funds and create an incentive, which has generally been the approach taken by the U.S. Congress in the past on a number of issues, but rather we are penalizing those States with existing transportation funds, which certainly are needed in terms of repairing roads and bridges.

We allow States to determine minimum driving ages for their residents. States have the authority to determine when the driver education courses are required. They determine the difficulty of the written as well as the practical tests. They determine many of the speed limits for various areas. And they determine the various penalties for violations such as driving while intoxicated.

In nearly every aspect of day-to-day driving we trust the individual States to determine the motor vehicle laws that govern the majority of vehicles that are on our highways. In short, the States control every aspect, for the most part, of our driving experience, with one exception. And that is, of course, when the Federal requirements state that States must pass laws to adopt seatbelts and helmet laws.

I do not believe that seatbelt and helmet laws are any different than any other motor vehicle law. We are creating these mandates from a paternalistic attitude, as Senator SMITH indicated. It is certainly outdated. I think the arrogance of that attitude manifested itself in the last election. Somehow we always think Washington knows best, and what Washington knows best and what is good for the States generally can be two different objectives.

I believe these differing perspectives were a critical reason we did address banning unfunded mandates as our very first legislative initiative in this Congress.

No matter how you package this issue, sanctions or penalties or whatever, the truth is it is a Federal requirement that is an unfunded Federal mandate. If you look at the helmet laws—and that is a good example—the States, as Senator SMITH indicated, 25

States will lose almost $49 million in 1995, and in 1996 they will lose close to $97 million because they did not adopt seatbelt and helmet laws.

In fact, it is interesting to note that many States already fund rider education programs with respect to riding motorcycles. My State is a very good example.

Yet, I am under these penalties. My State will double the motorcycle rider education safety program from $500,000 to more than $1 million. Yet, my State certainly needs these transportation funds for other things. It already has a well funded rider education program. It does not need to have it doubled. That is what the penalty will be under section 153.

It is interesting to note that those 44 States that have rider education programs with respect to motorcycles have very high rates of safety. And they do not have mandatory helmet laws. My State again is a good example. We ranked 49th out of 50 States in terms of the number of fatalities with respect to motorcycles in 1993. We are next to the lowest in the country. Yet, we do not mandate a helmet law, but have a very active motorcycle education program. We know that these education programs work. The State knows that they work.

It is hard to believe that we are saying somehow that the Governors of each and every State and every State legislature somehow are unconcerned and unresponsive to the statistics in what might be happening on their roads and their highways.

As we all know, State governments are even more close to their people and to their constituencies, and somehow we are saying that they cannot possibly understand the implication if they do not enact seatbelt and helmet laws.

The question here today is not whether we believe wearing a seatbelt or a helmet is a good thing. What we are saying is who should decide? And it clearly should not be the Federal Government.

As I said earlier, much of our driving experience is governed and dictated by States. In 1993, there were 2,444 motorcycle fatalities. That same year, there were 5,460 young people between the ages of 16 and 20 that were the victims of traffic fatalities.

So if you apply the logic of section 153 of ISTEA, that it is a safety issue, then one should suggest that penalties should be imposed on those States for allowing individuals to drive a car or ride a motorcycle under the age of 21.

The fact of the matter is there are many dimensions to our personal and social behavior that do have implications for health care expenditures. And I know opponents of Senator SMITH's amendment, or an amendment which I might offer or one which Senator CAMPBELL might offer, are saying that this really has an impact on our health care expenditures. Well, I have to say that there are many aspects of social behavior in this country that have an impact on our health care costs. Low-fat diet, lack of exercise—if people do not engage in having a good diet or engage in daily exercise, that can be a contributing cause of heart disease, which is a major cause of death in this country.

What should the Federal Government do—dictate a change in behavior in that regard? We could go on and on with some of the numbers of examples that we could offer as to what the Federal Government should get involved in because it has impact on health care. The point is that this legislation that was passed in 1991 really intervened in an area that has traditionally been a State issue.

I hope that we can recognize here today in light of what happened in the last election, in light of what I think people strongly feel about what should be traditionally a Federal issue and what should be consistently a State issue, that we reverse what occurred in 1991.

It is interesting to note that motorcycle fatalities, as well as motorcycle accidents, were reduced by 53 and 54 percent respectively between the time period of 1980 and 1992 before the penalties of ISTEA were put in place. It is because of motorcycle rider education programs that it made a difference in terms of reducing the number of accidents and fatalities.

Applying the logic further, we could say, ''Well, the fatality rate on rural interstates is almost twice that of urban interstates.'' Does that mean we should penalize States with rural interstates because they have more accidents and more fatalities? Of course not.

In 1993, before the Massachusetts seatbelt law went into effect, that State was one of only two States in the country that showed a consistent drop in motor vehicle fatalities for the prior 6 years. Another State which showed a consistent drop was Arizona, which does not have a mandatory helmet law.

All combined, the 28 States that will face penalties if they do not enact both the helmet and seatbelt law will lose a combined $53 million in needed highway maintenance and improvement funding.

When my State officials were asked exactly how they felt about the loss of money in the State of Maine, which is $800,000 that we will lose in 1995 and $1.7 million that we will lose in 1996, the State officials replied that, ''We could be spending it on our ailing highways and bridges, where it is desperately needed.''

So I hope that we recognize that we should reverse the position that was taken in 1991. We know the States are responsive to these issues, and to these concerns and what occurs on their highways.

My State, for example, is sending to our people the question as to whether or not to enact a seatbelt law. I think that is perfectly consistent with the rights and the interests of the people of my State. If they make a decision that we should enact a seatbelt law, that should be their decision. But it should not be the Federal Government dictating that approach to the people of my State.

So again, I want to thank Senator SMITH for offering this amendment. I think it is a good amendment. I think it takes the right approach. It is a States rights issue, and it is an issue of unfunded mandates in the State, and every State has a right to determine its own motor vehicle laws.

I yield the floor, Mr. President.

Mr. CHAFEE. Mr. President, I vigorously oppose the amendment that has been offered by the Senator from New Hampshire. I really think it is very, very unfortunate that this amendment has been brought forward because a study that has been conducted on the efficacy and effectiveness of safety belts and motorcycle helmets has come to the conclusion that they are effective.

I have here a letter from the Eastern Maine Medical Center. This is what the physician there has to say about the use of seatbelts.

> At Eastern Maine Medical Center here in Bangor, where I am a physician, we have completed a study of the issue of seatbelt use and hospital charges of area Maine patients injured in car accidents with and without seatbelts. Our study shows that patients injured without seat belts had hospital bills almost $10,000 higher on average than patients injured while wearing seatbelts. We estimate that seatbelts would have saved $2.4 million in hospital bills for the 256 unbelted patients in our study. Those unnecessary bills were paid by all of us, of course. In the last 2 years of our study, we were able to identify the insurance status of patients admitted after car accident injuries. The medical bills for Medicaid and Medicare patients alone amounted to more than $2 million. Of the 73 Medicare and Medicaid patients in our study, only 10 were wearing seatbelts at the time of their injuries. We estimate seatbelts would have saved these patients alone $599,000, nearly $600,000. This saving of almost $600,000 would have been in just one hospital, in 2 years, and just 63 patients.

Maine has a seatbelt use of 35 percent, the lowest in the United States. Our low-use rate, which then results in more injuries and higher costs, as we have identified in our study, then forces taxpayers in other States who are required to wear seatbelts, to pay for our freedom to be unbelted in Maine.

Mr. President, a lot of discussion this afternoon has been about unfunded mandates and the Federal Government dictating what takes place.

The answer is twofold. I think as Senators we have a responsibility to do what we can to preserve lives and prevent injuries of American citizens. And it is not enough to say, oh, leave it to the States; let them take care of it.

I will show you a chart in a few minutes that shows what happens when we do leave it to the States.

In 1966, we passed a law in the Federal Government that mandated motorcycle helmets and seatbelts, and in

this chart you will see that once that occurred the number of deaths declined dramatically. Then 10 years after that, in 1976, we repealed that, and up go the deaths. Will the States pass all these laws? Will these wonderful legislators, bold and brave, step up and face up to the motorcyclists who do not want this?

Well, the answer frequently is no.

Now, there is another point I would like to make, Mr. President. That is that the wrong approach here is to have sanctions. The way this law works—and I was instrumental in the writing of the so-called ISTEA legislation, the highway bill of 1990, this portion of it, and what we did was we said you pass a mandatory seatbelt and motorcyclist helmet bill by such-and-such a year, and if you do not, you will have to devote some small portion of your highway money to education and safety features, such as the three Senators have been discussing here this afternoon.

And it was pointed out that that is the wrong way to go; we ought to have inducements, benefits paid, rewards. Well, we do not do that. We have, as you know, a minimum drinking age bill that passed the Senate, and it says you must enact a law that says you cannot serve liquor to those under 21, and if you do not you lose 5 percent of your highway funds, and the next year you lose 5 percent more, making it 10 percent. That is the law.

Now, nobody is advocating repealing that. That is not a benefit that is thrown up: That is the wicked Federal Government coming in and dictating what you have to do. That is Big Brother, as we are accused of being here.

But there is no question that has saved hundreds of lives of the young people of our Nation.

Now, you might say, what right do we have to say anything about motorcyclist helmets or seatbelts. We have a right because we pay the piper. We are the ones who pay Medicaid. And do not tell me that these motorcyclists, when they end up in comas because they do not have helmets, have wonderful insurance policies that take care of them. Those are not the facts. The facts are that very, very frequently they do not, and particularly if they are in a coma for a long period. There is a Rhode Islander in our State hospital who has been there 20 years in a coma, all being paid for by the State, the cost now exceeding over $2 million to take care of him during the 20 years. And so, Mr. President, I just very, very strongly hope that this amendment will not be adopted.

Now, I would just like to talk a little bit about what are the benefits of safety belt and motorcycle helmet laws. There have been a slew of studies done by the National Highway Traffic Safety Administration, the States, the medical community, the safety groups, the Centers for Disease Control, the General Accounting Office, for example. They reached the same conclusion. They are as follows: First, safety belts and motorcycle helmets save lives and prevent serious injury.

Everybody knows that. We do not have to be in every emergency room to know that. We know it. We have seen it.

Over the past 10 years, safety belts and motorcycle helmets have saved over 60,000 lives and prevented 1.3 million serious injuries. If everyone used the safety belt, an additional 14,000 lives and billions of dollars could be saved every year. There are 40,000 people killed every year in our country. That could be cut to 26,000—14,000 lives saved if safety belts were used. If every motorcyclist wore a helmet, nearly 800 lives could be saved every year.

Unhelmeted motorcyclists involved in collisions are three times more likely than helmeted motorcyclists to incur serious head injuries that require expensive and long-lasting treatment. I think the motorcyclists would acknowledge that, and indeed in the sanctioned meets of the American motorcycle clubs you have to wear a helmet. That is a mandate. You cannot be in those meets, those hill climbs, and so forth, without a helmet. That is what they think of wearing helmets.

Now, the second point. The cost of motor vehicle crashes are staggering. Each year, as I say, 40,000 people die on our Nation's highways. Another 5.4 million—that is not thousand, that is million—5.4 million people are injured each year. These fatalities and injuries cost us over $137 billion every year for medical care, lost productivity and property damage. This represents a $50 billion annual cost to employers. The lifetime costs of one serious head injury sustained because no helmet or safety belt was used can reach the millions of dollars.

Now, who foots the bill? When somebody is injured in a motorcycle or an automobile accident, a police officer, who is a public employee, responds. The municipal ambulance carries the injured party to a hospital. Medical specialists provide emergency treatment without regard to costs. And if the victim is on welfare or unable to pay, Medicaid pays, and we all know that.

Now, the third point I would like to make is that mandatory laws are the most effective way to ensure that safety belts and motorcycle helmets are used. The States that have enacted mandatory safety belt-helmets have an average of a 20 percent increase in use. In other words, it is not enough to have an education program. You have to mandate it by law or it will not be followed.

In the early 1980's, before safety belt laws were enacted, the use rate was 11 percent. Now, with laws in 48 States, some version of safety belts, the use rate is 66 percent.

Now, I would like to read—we had hearings on this. We had doctors and others come in—what Dr. Rosenberg from the Centers for Disease Control said. Listen to what he said.

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

In other words, education does not do the trick. You have to have a law. And finally:

> Effective safety laws require a Federal-State-local partnership. Our history shows that when Federal requirements are eliminated, safety laws are weakened or repealed and deaths and injuries increase.

In other words, what they are saying there is the Federal Government really has to step in and do the trick. If we, the Federal Government, back off from this legislation, you can bet your bottom dollar that many of the States that have enacted motorcycle helmet and seatbelt laws will retreat because the pressures are so strong.

I have been a legislator. Many of us here have been legislators. The pressures that can come from one group, particularly if it is not something that the individual is deeply interested in himself—he might be interested in improving the economic climate of his State or doing something about unemployment compensation. And when a host of motorcyclists come after him day after day after day to repeal a law, then the individual frequently gives way. That is what happened in the different States when the Federal law mandating the helmet use or mandating seatbelts was repealed.

Now, what happens when the State does pass the law pursuant to the efforts that we have made here? California enacted its all rider motorcycle helmet law and motorcycle fatalities dropped by 36 percent. That is a remarkable figure. Maryland's helmet law resulted in a 20-percent fatality drop; 20 percent fewer people were dead as a result of the Maryland law. Both States realized direct taxpayer savings in millions of dollars. Both States enacted these laws with the encouragement of the Federal law.

There has been a great pressure in both States to repeal their motorcycle helmet laws. Can they maintain their laws if the Federal requirements are removed? I believe it will be difficult.

I come from a State that has not enacted either of these laws. We have no motorcycle helmet law in our State. We have no mandatory seatbelt law. We have to give up money, as pointed out by the distinguished Senator from New Hampshire. We have to put extra money into education and safety costs that we do not want to put in. And so I say then, if you do not want to put it in, pass the law. ''Oh, we do not want the law. We think people have freedom to drive their motorcycles without helmets. If they end up on the public assistance rolls, and particularly through Medicaid, well, that is just one of those things.''

We had a State senator from Illinois talk about this business of what the

pressure is on the States. This is what the State senator said:

So even though there is no doubt in my mind that a motorcycle helmet law is something that would be favored by an overwhelming majority of the citizens of the State of Illinois—

The people would be for it.

the mechanics of passing a law are such that the more vocal opponents have had their way in the general assembly. The Federal Government has played a critical role in enacting safety legislation throughout the years. The original helmet law would not have passed but for Federal action. We all know that the drinking age and seatbelt legislation was passed in many states as a result of Federal action. And we also have some experience that every time that Congress changes its mind, such as back in the '70's, death and injury rates go up.

I will guarantee you, if this amendment is adopted today, you will see these States repeal the laws that they have. That is a guarantee. And you will see the number of deaths on motorcycles and from lack of using the seatbelts increase in our country.

I have a chart here. What is a speech these days without a chart?

Now, this illustrates what I have been talking about. In 1966, the law was passed. The Federal law mandated helmet use. And you can see the dramatic decrease in the death rate. This is per 10,000 motorcyclists. It was 13,000, then dropped down to about 8,000 and stayed at that and slid down a little more and got way down until you are about less than half or near than half of a decline in the deaths.

Then the law was repealed in 1976 right here in Congress. Up it goes once again. So that shows the correlation between what happens when we repeal our laws. And, obviously, repeals were enacted in the States. Twenty-seven States repealed or weakened the helmet laws right after we said you do not have to do it. My State was one of them. We had—in my State following the 1966 Federal law, sometime in that period around 1970, we enacted in our State a mandatory motorcycle helmet law.

When the Federal law was repealed, our legislature gave us, as did so many others, a repeal of the law itself. That will be the consequence. No question about it.

Now, I have a letter here from the executive director of the Safety and Health Council of New Hampshire. This is what he says:

Without continued Federal leadership in these critical areas of highway safety, we will see a return to the inconsistent and less effective State laws. Inevitably there will be a greater loss of life and an increased financial burden on our society. The problem is especially acute in New Hampshire which, despite overwhelming evidence of the benefits, refuses to pass either a seatbelt or a helmet law.

Now, as the legislator from Illinois pointed out, these laws enjoy broad popularity except with a small but very, very persistent and energetic group that bedevils the legislators until they conform. The public supports strong safety laws. In recent national public opinion polls, 76 percent of those surveyed opposed the weakening or repeal of safety belt laws and 90 percent opposed the weakening or repeal of the motorcycle helmet laws.

Now, why do we repeal this? Why is this suggestion made?

The proponents argue that this section 153, which is the basic law, constitutes an encroachment on States and individual rights. Well, I disagree. When we get into our cars or hop onto our motorcycles, we do not do it in a vacuum. We become part of a complex and usually crowded transportation network. In the best interest of protecting drivers, property, and safety, we live by certain rules. Taxpayers have a right to be protected from higher taxes which result from motor vehicle crashes. Now, as I say, proponents have argued this undermines States rights, individual rights. You are entitled to drive your motorcycle with the wind blowing through your hair.

The problem is that the costs associated with highway crashes are a serious national problem. Each additional injury and fatality takes its toll on hospital backlogs, regional trauma centers, tax rates, national insurance rates. All of us have spent untold numbers of hours on trying to do something about health care costs in this country. And there is not one of us who will not say we are for preventive medicine.

It is a crime. Give children immunization. Prevent these accidents and diseases and illnesses from occurring. There is no clearer way of doing what we are out to do, preventive medicine, than having laws just like this that we have got on our books. And those who would vote to repeal this clearly are taking a vote to add to our medical costs in this country. There is no doubt about that. So, Mr. President, I do strongly urge my fellow colleagues to reject the amendment proposed by the Senator from New Hampshire.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Very frankly, I thought we would probably be able to avoid a game of statistics and studies. But it looks like we are not going to. I have a number of them that I will ask unanimous consent to have introduced in the RECORD. I would like to mention just a few things.

First of all, my colleague, the chairman, talked a little bit about the California study. And I would like to point out that the California study done by Dr. Krause took only—I think the figures were misleading because basically he took only the accidents into consideration based on the number of motorcycles that were registered at the time, not using figures up to 2 years before that indicated almost a drop of 50 percent in the registrations in California during the 2 years preceding his study. Clearly, if you have less of them on the highways, there are going to be less accidents.

He also did not take into consideration there is in excess of over 1 million motorcyclists that went through rider safety training. I would like to read just a few statements from different studies that have been made which I will try to abbreviate very shortly.

One, accident and fatality statistics, analyzed by Dr. A.R. MacKenzie, said that in a study of over 77 million motorcycle registrations covering the 16-year period, 1977 to 1992, the accident and fatality rates have been calculated and compared with in the helmet law States than in the repeal States.

On the basis of registrations, there have been 10.4 percent more accidents and 1.1 percent more fatalities in those States that had mandatory helmet laws than in repeal States. Our State is one of them. In Colorado, in fact, the fatalities went down after we repealed it.

According to the Wisconsin Department of Transportation 1978 Division of Motor Vehicle study, 29.4 percent of the motorcyclists that died wearing a helmet died of a head injury; 28.9 percent, almost 29 percent, of motorcyclists that died without a helmet also died of head injury. In other words, almost identical statistics with or without the helmets.

According to the National Safety Council ''Accident Facts'' of 1991, motorcycles represented only 2.2 percent of the overall U.S. vehicle population, and yet they were only involved in less than 1 percent of all the traffic accidents, the smallest recorded category of any moving vehicles.

Furthermore, only 2.53 percent of all registered motorcycles were reportedly involved in accidents, and just a little over 3 percent of those were fatal.

The University of North Carolina Highway Safety Research Center study says—and I am trying to abbreviate these:

Helmet use was not found to be associated with overall injury severity, discharge facility . . . or insurance status. Injured motorcycle operators admitted to trauma centers had lower injury severity scores compared to other road trauma victims, a group including motor vehicle occupants, pedestrians and bicyclists.

A State of Kansas Health and Environment Department report to NHTSA stated:

. . . we have found no evidence that the death rate for motorcycle accidents increased in Kansas as a result of the repeal of the helmet law. We have also not found any such evidence on a national basis.

I skipped over one, the Second International Congress of Automobile Safety said:

The automobile driver is at fault in over 70 percent of our car/motorcycle conflicts.

Seventy-two percent of U.S. motorcyclists already wear a helmet, either by choice or existing State laws, while auto drivers use seatbelts only 47 percent of the time. Even with seatbelt laws in effect in 48 States, covering over 98 percent of America's population—only Maine and New Hampshire

currently have no seatbelt law—more than half of all auto fatalities involve head injury, yet no one would suggest that auto drivers should wear a helmet. There are 10 times the fatalities in automobiles due to head injuries than motorcycles.

In a Hurt Report, Traffic Safety Center, University of California, they indicate 45.5 percent of all motorcyclists involved in accidents had no license at all and over 92 percent had no training. That is what we are trying to emphasize here. Helmets do not prevent accidents, training prevents accidents.

The American College of Surgeons declared in 1980 that improper helmet removal from injured persons may cause paralysis.

Inside a new label—I just happened to read one a couple years ago and wrote it down, a new DOT label said:

Warning: No protective headgear can protect the wearer against all foreseeable impacts. This helmet is not designed to provide neck or lower head protection. This helmet exceeds Federal standards. Even so, death or severe injury may result from impacts of speeds as low as 15 miles an hour . . .

So, in other words, not a Federal agency that is empowered to authorize the testing and no private industry that does the testing, since DOD does not do their own, none will guarantee helmets over 15 miles an hour.

From my perspective, they do darn little help.

In a DOT test report of 1974 through 1990, where DOT tested helmets by a 6-foot vertical drop, impacting at 13.6 miles an hour, even at those low speeds, 52 percent of the helmets failed during that test.

Another study, done by Jonathan Goldstein at Bowdoin College:

In contrast to previous findings, it is concluded that: One, motorcycle helmets have no statistically significant effect on the probability of fatality and, two, past a critical impact speed—

And I assume that is past 13.6 miles an hour, the DOT test speed.

helmets will increase the severity of neck injuries.

A study done by Dr. John G.U. Adams, University College of London, said:

Wearing a helmet can induce a false sense of security, leading to excess risk-taking and dangerous riding habits.

In fact, the six safest States by actual study in the United States per fatalities for 10,000 registrations are: Wisconsin, Iowa, Minnesota, New Hampshire, North Dakota, and Wyoming. None has adult helmet laws. And yet the States that have the helmet laws also have the highest injury and fatality rates.

So we could probably stay here all day long talking about studies that support either thesis, that they are good or bad, but I think we are still getting away from the fact that the decision should be made by the States, by the individuals, not by the Federal Government.

I see my friend and colleague from Montana in the Chamber. We were discussing the cost of each State a while ago. In fact, according to the statistics I have, Montana stands to lose $2,192,000 this year out of their construction funds if we do not pass some relief for States from this punitive measure we took in the Federal Government.

My own State loses over $2 million. Many of the people who will be here on the floor today—over 50 Senators, since there are 25 States that have refused to comply—are going to be penalized collectively to the point of hundreds of millions of dollars. With that, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I have a letter dated May 1 from the Secretary of Transportation, and I would like to read parts of it, if I might. This is what he said. It is addressed to me:

I would like to take this opportunity to present the administration's position on several vital highway safety laws that may be challenged during the committee's consideration of the National Highway System legislation.

This was written as we took up the legislation in the committee.

The Department of Transportation strongly supports the existing Federal provisions encouraging States to enact and enforce basic highway safety laws, such as section 153 of Title 23, United States Code—

That is the provision that deals with motorcycle helmet and seatbelt laws.

relating to safety belts and motorcycle helmets. We would oppose efforts to weaken these provisions. We estimate that State minimum drinking age laws, safety belt and motorcycle helmet laws and enforcement of speed limit laws save approximately $18 billion every year. If these provisions are weakened or repealed, costs to the States and Federal Government would increase.

Then he talks a little bit about the minimum drinking age. Next paragraph:

The other provisions offer similar savings to States. Motor vehicle crashes cost our society more than $137.5 billion annually in 1990 dollars. Many costs of motor vehicle crashes are ultimately paid by Federal and State welfare public assistance programs, such as Medicaid, Medicare, and Aid to Families with Dependent Children.

Between 1984 and 1993, safety belt and motorcycle helmets use saved more than $16 billion in Federal and State revenues. Nearly $6 billion of this is the result of reduced public expenditures for medical care, while the remainder represents increased tax revenues and reductions in financial support payments.

The Federal provisions encouraging minimum drinking age laws, safety belt, motorcycle helmet laws and the enforcement of speed limit laws were established because of high social and economic costs to our Nation resulting from motor vehicle crashes. These four provisions address areas where State laws and enforcement are proven effective and where savings are great. For example, when California enacted its all-rider motorcycle helmet law, motorcycle fatalities fell by 36 percent and the State saved millions of dollars. Every State that has enacted such a law has had similar experiences. States that repeal all-rider helmet use laws uniformly see a substantial increase in motorcycle fatalities.

For example, the Colorado Division of Highway Safety found that the State's fatality rate decreased 23.8 percent after adopting a helmet law and increased 29 percent after the helmet law was repealed.

That is what we were discussing earlier about when the Federal Government in 1976 said you did not have to have the law, the States repealed them, I think it is 27 States repealed them—my State was one of them, regrettably—and up go the accidents.

Wisconsin Department of Transportation data indicates that motorcycle fatalities were 18 percent lower when the State had a helmet law than after repeal.

Mr. President, Secretary Peña goes on:

Weakening or repealing these will lead to a tragic increase in unnecessary preventable deaths and injuries on our roads and will increase the burden on State and Federal Government. At the very least, we must oppose steps that would clearly add to Federal spending.

Signed by Federico Peña, Secretary of Transportation.

So, Mr. President, I think in every way you look at this, whether you are looking at the tragedy that comes from accidents where people do not have a seatbelt, the tragedy that comes to motorcyclists who do not wear their helmets, or the cost to the Federal Government—everybody here is for reducing cost—I find this amendment very, very difficult to understand.

Mr. President, I hope very, very much that it will be rejected.

Ms. SNOWE. Thank you, Mr. President. I would like to respond to a few of the comments that have been made by the chairman, the manager of this legislation, because I think it is important since we are quoting from one another's States with respect to statistics and positions of officials in those States.

It is interesting to note, because back when we had hearings this year on this entire issue, Rhode Island State Senator William Enos, in testimony before the Environment and Public Works Subcommittee on Transportation and Infrastructure in March, noted that in 1976, the last year that Rhode Island had a helmet law, there was 1 death per every 1,000 riders. In 1994, without a mandatory helmet law, that rate was less than 0.5 deaths per 1,000 riders, despite the fact that there were 7,000 more riders in 1994 than in 1976.

He goes on to say:

In 1993, the number of fatalities per 10,000 registrations was lower in Rhode Island than in many States with motorcycle helmet laws. Massachusetts, which has applied strict helmet wearing standards to motorcycle riders, has a fatality rate a full point higher than Rhode Island. Much of this success can be attributed to motorcycle rider education programs, which were first implemented in 1980.

Back in 1980. That was 15 years ago that Rhode Island implemented a motorcycle rider education program because they understood the value of those programs with rider safety and being able to drive a motorcycle better and more effectively. The same is true for driving an automobile.

I further read from his testimony:

Again, referring to the attached graph, it can be seen that since rider training began, fatality rates have continued to decline. Furthermore, Rhode Island also had the second lowest rate of all motorcycle accidents per 10,000 riders, behind only Oregon, which has a helmet law in place.

As I said earlier, the State of Maine in 1993 ranked 49th in the number of motorcycle fatalities, second lowest in the country. And it has a very effective rider education program.

The 44 States that have rider education programs—and I think it is essential to underscore that there are 44 States that have motorcycle rider education programs. Those are not essentially mandated by the Federal Government, but the States have determined in their wisdom that they are the most effective approach in reducing the number of fatalities and accidents on the highways.

In fact, those programs are financed through motorcycle registration and license fees. Collectively, they have raised $13 million. Contrary to what the chairman has said, these education programs are not only financed by the States, but our States have determined how much is necessary to finance these programs. It is not as if they do not have the money. They have been financing the programs.

My State does not need to double the amount of money that already exists for its motorcycle rider education program. It has sufficient funding through license fees and registrations. But it does need its money for highway improvement and repairs. It desperately needs that funding.

Listening to the debate here today, one would think that it would be very difficult for State legislatures and the Governors and State officials to have the capability to make these decisions on behalf of the best interests of their State and the welfare of their own constituency.

Somehow, we have this notion that they do not know any better, that they could not possibly make these decisions for their constituents in their States, that somehow we know better here in Washington, DC, what should happen in the States when it comes to motor vehicle safety; that they do not have the capacity to understand.

No one is disputing the fact that we should do everything we can to improve safety on the highways. There is no doubt about that. Yes, it has some impact on our health expenditures. As I said earlier, so much of our behavior asks how far do we go?

That is the issue here today. Where do we draw the line as to what the Federal Government will dictate to the States or what the States themselves will decide for the people who live in their States? That is the ultimate question here. And I think that it is important to make a decision as to how far we are willing to go.

I would argue with the chairman that there are many other aspects to personal and social behavior that contribute far more to that cost of Medicare than riding a motorcycle or driving an automobile.

Mr. GREGG. Mr. President, will the Senator from Maine yield for a question?

Ms. SNOWE. I am happy to yield to the Senator.

Mr. GREGG. I think the Senator from Maine has made a superb point, and I would like to ask the Senator if this is the basic concept.

This is not an issue of health. It is not an issue of safety. It is an issue of States rights. On an issue of health or safety, that is a police power traditionally reserved for the State. It is ironic and anachronistic that the Federal Government has stepped into this area, where it has not stepped into 100 different areas that could be outlined.

Is not what we are dealing with here an issue of who has the right to manage the health and safety of the State, and whether or not that right is nationally vested in the State government, and it is inappropriate for the Federal Government to come in and usurp that right?

Ms. SNOWE. I answer the Senator, that is absolutely correct. Certainly, Senator GREGG well knows, having been a former Governor of the State of New Hampshire, to understand exactly what is relevant and within the purview or jurisdiction of the State, it is very essential that we begin to draw those lines as to how far we need to go to impose Federal mandates and Federal dictates.

Would the Senator agree that the States are in a much better position to make those decisions? Are they not more responsive since they are closer to the people? The Senator has been a Governor and certainly can appreciate that relationship between the State and the residents of that State.

Mr. GREGG. Mr. President, if the Senator will yield, just to respond to that point, I believe that is absolutely true. I believe the Senator from Maine, the Senator from New Hampshire, and the Senator from Colorado have made this point extraordinarily well. That is, whether or not someone is on a highway and operating——

Mr. LAUTENBERG. Mr. President, may I inquire of the Parliamentarian whether the floor is now obtained by the Senator from Maine, or do both Senators have the floor at the same time?

The PRESIDING OFFICER. The Senator from Maine has the floor. She has yielded time to the Senator from New Hampshire——

Mr. LAUTENBERG. She cannot yield, Mr. President; I am sorry.

The PRESIDING OFFICER. For a question.

Mr. LAUTENBERG. I am waiting to hear the question.

Mr. GREGG. I have the right to yield for the purposes of a question, Mr. President. During the prior colloquy, there was a question asked and there will be a question asked during this colloquy, also.

The point which I think the Senator has made and which I wish to elicit her thoughts on, further, are there not a variety of activities that occur on highways which determine the safety of highway activity, such as the size of a car that operates on the highway, such as the licensing of the operator of the car on the highway, such as the inspection of the car that operates on the highway, and the motorcycle, the licensing of the motorcycle operator on the highway? Are these not traditionally rights which have been reserved to the State?

It is sort of strange that the Federal Government would pick out just one area of safety on a State highway issue to step into. Is that not the issue here, that there is basically a unique usurpation of State rights?

Ms. SNOWE. The Senator is absolutely correct. When it comes to dictating the driver's age or the automobile inspection or the types of tests that are given so that people can get their licenses, or even some of the speed limits that are established on the various roads within a State, they have all traditionally been within the purview and jurisdiction of the States in determining that.

In fact, I was mentioning earlier in some of the statistics that the States have certainly made a number of decisions with respect to those issues and could make even more. We could draw a lot of decisions here today in terms of what we should do based on statistics, but the States are in a much better position to make those decisions.

I ask the Senator, because I think it is important since the Senator has been a former Governor, there has been this sort of impression here that somehow the States just do not understand or get it and, therefore, it requires and compels the Federal Government to impose these dictates and mandates.

Does the Senator not agree that the Governors and the States and the State legislature are in a far better position to make decisions about what is in the best interests of the general welfare of their constituencies and residents?

Mr. GREGG. Mr. President I will agree with that. That is obviously the purpose of this amendment, and I congratulate the Senator from Maine, the senior Senator from New Hampshire, and the Senator from Colorado for bringing this to the floor.

I see the Senator from New Jersey is seeking the floor, and although I may have further questions of the Senator from Maine, I will pass up those opportunities. I appreciate the courtesy of the Senator from Maine in allowing me to answer these questions.

Ms. SNOWE. I thank the Senator. Just to conclude, Mr. President, because I think it is important to read from the testimony of a State senator from the State of Illinois, who presented testimony before the committee on this issue—I would like to quote from her statement because I think it is important. She said that ''Many in the State believe that this course''—referring to the penalties imposed by ISTEA in 1991—''is directly responsible,''—the course they established in the State of Illinois for rider education—

. . . is directly responsible for the reduction in motorcycle accidents we witnessed in Illinois. We had a 46 percent decline in accidents involving motorcycles from 1985 to 1990. This led to a 48 percent decline in injuries to motorcyclists. During the time Illinois had a helmet law in 1968 and 1969, our fatality rate per 10,000 registrations averaged 9.15. Back then, we had 91,000 registered motorcycles. In 1993, we had 200,000 motorcycles registered and with no helmet law our fatality rate was 5.4 per 10,000 registrations, double the number of motorcycles, more vehicle miles traveled per year, no helmet law, and our fatality rate was four points lower. Yet Congress has sanctioned the State of Illinois for over $33 million.

I would respectfully suggest to you that putting men to work building and repairing roads is a better and more efficient use of our highway dollars than requiring us to print up and distribute bumper stickers telling people to wear seatbelts.

Finally, I would like to quote from a July 1994 Wall Street Journal article.

Dennis Faulkenberg, chief financial officer for Indiana's Transportation Department, says this year's lost share would have paved 25 miles of highway and repaired 6 to 8 bridges. New lanes and intersection improvements will also fall by the wayside because of the loss of money to the State of Indiana as a result of this penalty.

Further, I would like to quote from a New Hampshire State Representative who testified before the Environment and Public Works Subcommittee on Transportation in March. He said:

My issue on whether I favor or disfavor a law mandating helmets or seatbelts is not the issue. The reason I came here today is because I feel this issue should be able to be decided by the State Legislatures in this country without the threat of Federal sanctions and money being moved.

I don't think there is one of my colleagues in the State house that doesn't feel motorcycle helmets and seatbelts are a safety issue. There isn't one of us that will disagree with that. But let us discuss the issue, let us decide the issue on the merits of the issue, and not because we're going to have money transferred.

I think that speaks very well to the issue and the essence of the amendment offered by Senator SMITH.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I would like to address the amendment before us, if someone will yield time to me?

The PRESIDING OFFICER. There is no time limit.

Mr. FEINGOLD. Mr. President, I would like to speak to one aspect of the amendment offered by the Senators from Maine and New Hampshire, the repeal of sanctions against States lacking mandatory helmet laws. I am a cosponsor of the amendment which will be offered by the Senator from Maine at a later point, which addresses only the matter of helmet laws. But regardless of the amendment, there are two fundamental questions inherent in this debate. What is the proper role of government in regulating individual behavior? And what is the appropriate role for the Federal Government in policy areas that have traditionally been under the jurisdiction of the States?

There will be many issues of safety raised in this debate. In addition, the point will be made that unhelmeted motorcycle riders increase societal costs, such as the costs of publicly-funded health care. Those are legitimate issues, but I do not think they address the truly fundamental questions at stake in this debate. I think the fundamental question, the fundamental issue, is the proper role of government.

The relationship between the Federal Government and the States has been a complex relationship since the founding of this Nation. The practical and legal impact of the constitutional delineation of State and Federal responsibilities is very much a subject of debate today, and especially in this 104th Congress.

Mr. President, I served in the Wisconsin State Senate for 10 years and I know very well the frustration of State officials at the sometimes incomprehensible nature of the Federal bureaucracy. This much-debated relationship is frequently at issue in the discussion of Federal requirements on issues like seatbelts and helmets and speed limits. It has been the source of great controversy in my home State of Wisconsin, which does not have a mandatory helmet law. In each of the last two sessions of the Wisconsin Legislature, there have been resolutions introduced that have urged the repeal of section 153 of ISTEA, which imposes sanctions on States that do not have mandatory helmet laws.

Wisconsin stands to lose an estimated $2.3 million in highway funds this fiscal year and an estimated $4.7 million in fiscal year 1996, simply because our State is not in compliance with section 153 of ISTEA. Nationally, States will lose $48 million in fiscal year 1995 and $97 million in fiscal year 1996, if this provision continues.

This sanction applies, regardless of Wisconsin's efforts, which are substantial, to improve safety on its roadways. Wisconsin's Secretary of Transportation, Charles Thompson, told the National Transportation Safety Board that Wisconsin, through its program:

. . . consistently and actively encourages all motorcycle riders to wear not only helmets but all protective gear through:

Mandatory helmet laws for riders under 18 years of age and those with learner permits;

Maintaining an award-winning rider education program which has an all-time high enrollment now of 3,500 students;

Helmet surveys which show that 41 percent of riders wear helmets on a voluntary basis.

So, Mr. President, among States which do not have mandatory helmet laws, Wisconsin has the lowest number of fatalities per 10,000 motorcycle registration. Perhaps more significantly, among all States, Wisconsin ranks second with respect to motorcycle fatalities per 10,000 registrations—among all States—not just those that do not have a mandatory helmet law.

The National Highway Traffic Safety Administration has emphasized that State by State comparisons of motorcycle data are meaningless and that the only valid comparisons are those that compare data within an individual State over time. Let us take that test, if the previous tests are not adequate.

Even under that test, Wisconsin does extremely well. Our fatality rate in motorcycle accidents has declined from 93 fatalities in 1984 to 41 in 1993. I think the reason is that the State of Wisconsin has an exemplary motorcycle safety program which has had the impact of substantially reducing the total number of motorcycle accidents by almost 50 percent—50 percent, Mr. President— over the past 10 years.

So our State of Wisconsin is understandably upset with the sanctions contained in ISTEA, given their exemplary record for motorcycle safety. The State, I think, feels discriminated against since ISTEA does not credit the State with the progress it has made with respect to reduced motorcycle fatalities. Given that the intent of ISTEA is, as I understand it, specifically to reduce fatalities, Wisconsin legislators and regulators are bewildered that there is no credit being given to them for their accomplishments. That is one of the flaws of section 153 of ISTEA. It does not recognize significant accomplishments made in improving highway safety through proactive, voluntary State efforts.

I contend that a Federal mandate on helmet use is not necessary to require States to do the right thing.

However, beyond the question of the proper Federal-State relationship, I would also like to focus briefly on what I believe to be an even more fundamental issue. That is the question of whether the Government has a role in regulating individual behavior that does not have a direct impact on the health or safety of others in our society.

Unlike other motor safety requirements, such as traffic laws intended to keep traffic, highway traffic orderly and safe for all users, I believe helmet use only generally impacts the individual choosing to wear or not wear a helmet.

Many have argued that the cost which motorcycle accidents impose on our health care system are reason enough for regulating individual behavior, but I do not really see that as a persuasive argument. Individuals in this country still have a right to engage, if they wish, in risky behavior that does not directly harm others.

The Federal Government has not always regulated individual behavior for smoking or alcohol consumption in cases where that behavior does not affect others in our society. When it has done so, as we know with Prohibition, it has backfired.

Arguably, those behaviors, such as drinking and smoking, also impose substantial costs on our health care system. However, we have generally recognized that such behavior should, in most cases, be a matter of individual choice, regardless of whether that choice is the wisest one that an individual might make.

I generally object to Federal laws which regulate an individual's behavior for his or her ''own good.'' I ask my colleagues, if we regulate helmet use at the Federal level where, then, do we draw the line? Or can we draw the line? Where do we stop infringing upon an individual's right to make his or her own decisions?

I contend that helmet use or lack of helmet use does not generally impact others in our society. As a strong supporter of individual rights I oppose Federal legislation requiring States, or blackmailing States into enacting helmet laws. I personally would strongly encourage all cyclists to wear helmets, as does Wisconsin's Motorcycle Safety Program. But I do not believe it is the Federal Government's role to require anyone to wear a helmet.

Mr. President, the amendment to be offered by the Senators from Maine and Colorado would repeal the Federal sanctions on States which do not have mandatory universal helmet laws. It is a step in the right direction from the standpoint of individual rights and I urge my colleagues to support it. I yield the floor.

Mr. THOMAS. Mr. President, I rise in strong support of the Smith amendment, which will repeal the penalties levied against States that have not passed both a mandatory seatbelt and helmet law. The issue is not the merits of helmet laws or seatbelt laws. The issue is where should these issues be discussed and decided.

The message of the last election was that we need a smaller, less intrusive Federal Government. The Federal Government tries to do too much and has taken over so many functions that ought to be State and local decisions.

The vote on the Smith amendment is a clear test as to whether or not the U.S. Senate got that message.

For too long an activist Congress has used the threat of loss of highway trust fund money to force States to adopt whatever the Federal agenda of the moment is. I think that is a rotten way to do business.

First, that approach assumes the money collected through Federal gas taxes somehow belongs to the Federal Government.

This money comes from the States—it comes from highway users in the States. To collect the money from these folks and then turn around and hang it over their heads until they do whatever we say is outrageous.

Second, the people who support this approach think State governments are incapable of making informed, responsible decisions about the safety of their citizens. I do not know how you can defend the idea that folks in Washington are somehow blessed with the divine wisdom to always know best. State officials are just as responsible, and in most cases are in a better position to make informed decisions than folks in Washington.

I will let others argue the merits of helmet use. There are strong feelings on both sides of that issue. What I will argue is that debate ought to happen at the State level, and the Federal attempt has clearly failed.

Section 153 was enacted as part of the ISTEA bill of 1991. Since enaction of section 153, only 1 State has adopted a mandatory helmet law; 25 States have yet to adopt mandatory helmet laws, and are in violation of section 153.

This year alone, $48 million will be diverted away from road and bridge construction. Next year that figure will increase to $97 million.

In Wyoming, just over $1 million was moved from highway construction to safety education programs this year. Next year we will see over $2 million shifted away. I do not know how we can spend $2 million on safety education programs in my State. That comes to just over $4 for every man, woman, and child in Wyoming to be spent on safety programs while we have millions in unmet infrastructure needs.

It does not make sense, and a full half of the States have said enough. They have decided it is more important to preserve the ability to make their own decisions than to bow to Federal blackmail.

That is a choice States should not have to make. I strongly support this amendment and urge its adoption.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I think this issue has been aired really well. I do not have much to add and we are approaching a time when we could vote.

The basic question we are debating is the degree to which the Federal Government should tell people whether or not they should wear seatbelts or whether or not they should have helmets when they drive motorcycles.

Much of the debate today has centered around the number of fatalities, highway safety, and so forth. We all agree we want to minimize accidents on our highways. On the issue of the effect of wearing seatbelts and wearing helmets on safety and fatalities, my colleagues have voiced differences of opinion and cited various studies.

Mr. President, I would like to draw a distinction between the Federal requirements to have seatbelt and helmet laws. There are 48 States that have seatbelt laws. I do not feel that all of these States passed these laws just because there has been a Federal requirement. States have enacted these seatbelt laws and fatalities and injuries have dropped. It makes sense to wear a seatbelt. And because 48 States have these laws, we should not disrupt the status quo. Seatbelts are part of American society now. Children today grow up knowing that it is right to buckle-up when they get into a car. It has become a part of our lives.

However, only 25 States have passed helmet laws. Helmet laws are very controversial. It becomes more of an individual rights issue.

I do not believe it makes sense for Congress to blackmail States into passing motorcycle helmet laws. That is a decision better left to the States. I know this is not an easy matter. Many of my colleagues do not agree with the State's rights argument.

There is no debate here as to whether the Congress has the power to do this. Under the commerce clause, it is clear Congress has the power to require States to pass these laws. And if States do not, Congress has the power to withhold highway funds or say that a portion of highway funds should go to safety education programs.

So the issue here is not whether the Congress has the power to do make these requirements. That is not the issue. The only issue question is should the Congress be involved in these decisions. Should the Congress tell the States to pass these laws. Or should Congress let the States decide on their own whether or not to pass these laws. Each of us is going to have to answer that question. We are 100 different Senators. We are bound to have different points of view on that issue.

My view is that we should not repeal the Federal requirement for States to enact seatbelt laws.

I would hope that if we were to adopt the Smith amendment, most States would keep their seatbelt laws and not repeal them.

But the Federal requirement for helmets is different. As only 25 States have these laws, there is obviously much more controversy attached to them. These difficult decisions can be made by the States.

Now the pending amendment is the Smith amendment. It is my understanding that, if the Smith amendment is not adopted, the Senator from Maine is going to offer her amendment which would repeal only the helmet laws. If that amendment is not adopted, it is my understanding that the Senator from Colorado may offer his amendment which just requires States to have motorcycle education programs instead of motorcycle helmet use laws.

I mention all of this because the sequence of amendments and the consequence of whether amendments are offered or not has a bearing on a Senator's position. The order of amendments is important if Senators have a different view on either seatbelt or helmet laws. If a Senator does not want to repeal both seatbelt and helmet requirements, or a Senator wants to only

repeal the helmet requirements, the order of amendments is important. To close, I should also note that the State of Montana has had a referendum on seatbelts a few years ago. The people of Montana decided they wanted a seatbelt law. So let us focus on the helmet requirements.

Mr. SMITH. Mr. President, I know the Senator from Rhode Island would like to wrap this up. I have no objection to that if he chooses to seek unanimous consent to end the debate and have a vote momentarily. I want to make a couple of brief remarks. I think the Senator from Wyoming has a couple of remarks to make as well.

I would just say to the Senator from Montana that we are not repealing seatbelts laws anyway. We are not repealing any seatbelt laws. We represent two States in the Union—Maine and New Hampshire—who choose not to have seatbelt or helmet laws. All we are asking is the right for us to be able to do it our way, which is to improve safety, improve safety records, improve seatbelt and helmet use without the mandate which we are doing.

So it is a misstatement to say that we are trying to repeal the seatbelt law in the other 48 States. You passed them. You can have them. That is perfectly all right with me. I am not repealing that.

Mr. BAUCUS. I understand that.

If the Senator will yield for a question, if the Senator is successful, States which do not have helmet laws and seatbelt laws will not have to divert 1.5 percent of highway funds to safety education programs. Is that correct?

Mr. SMITH. Yes.

Mr. BAUCUS. Also by 1996, under current law, it will double to 3 percent.

Mr. SMITH. Yes.

Mr. BAUCUS. The Senator is providing in his amendment that States, if they do not have helmet or seatbelt laws, will receive the full complement of highway funding, and they would not have to direct that 1.5 to 3 percent to the safety program.

Mr. SMITH. That is correct. But I fail to understand the Senator's logic in saying that it is OK to mandate seatbelts and not OK to mandate helmets. What is the difference?

Mr. BAUCUS. Will the Senator let me repeat my argument?

Mr. SMITH. If I could just briefly reclaim my time here, we could mandate that we lock all the doors in automobiles, too. I can envision State troopers roaring down the highway seeing the door lock up and immediately sending somebody over to the side of the road and citing with a ticket. We could mandate that we all wear foam rubber suits and helmets every day that we walk around so we do not hurt ourselves.

The point is, Mr. President, in New Hampshire—I believe it is also true in Maine—we have safety programs, good safety programs.

This is a chart which shows the counties in New Hampshire, the 10 counties. Since 1984, we have improved—just picking one county off the top here, in 1984 there was a 24-percent seatbelt use in that county. Today it is 55 percent. There is no mandate. The point is we have good safety programs. We do not need another $800,000 for our safety programs. All we want is that $800,000 to be spent on repairing roads. It does not hurt Montana one bit. It does not do anything to Montana.

We just want the right to be able to have this done in the ''Live Free or Die'' State without a mandate, without the Federal Government saying you have to wear a helmet. Why do we not wear helmets in cars? How about this? Will the Senators agree that we should wear helmets in cars? We could save a heck of a lot more people from head injuries in automobiles than on motorcycles. So we wear seatbelts in the car. If you wear a helmet in the car, you would save even more lives.

The point is these mandates get ridiculous. The individuals have the right to essentially exercise the freedoms that they have as Americans.

This is not an unreasonable amendment at all. To use the logic that somehow we are denying somebody else in the other 48 States—there are 25 States here that are losing $97 million in moneys that they are entitled to to repair their highways. They are not getting it unless they decide to expand the safety program and spend money that they do not need because their safety programs are more than adequate. That is the whole stupidity of this Federal Government Washington-knows-best attitude.

The issue, in conclusion, Mr. President—and I heard the Senator from Rhode Island talk about this. He said mandatory helmets have saved thousands of lives. Wrong. Helmets save lives. Mandating the helmets do not save lives. Wearing helmets save lives. It is not the mandate.

So, you know, who makes the decision? That is the issue. Who is going to make the decision about wearing a helmet? The individual, the State, or Washington? It is no different than anything else in Medicaid, welfare, whatever, environmental laws. It is the same issue. Washington knows best. Therefore, nobody else knows anything. So we have the mandates.

I ask unanimous consent in conclusion—even the USA Today, which is part of or a strong supporter of the conservative cause, says, ''States know what's best,'' and in their recent editorial of May 8, they indicated that we were right in what we are trying to do here on seatbelt and motorcycle helmet laws.

So I ask unanimous consent that article be printed in the RECORD, Mr. President.

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

[From USA Today, May 8, 1995]

STATES KNOW WHAT'S BEST

I–10 stretches hypnotically out of Tucson across the desert. Yet the speed limit is the same as on I–64 as it undulates through the mountains of eastern Kentucky.

Any driver traveling those roads would recognize the foolishness of the uniformity instantly. It exists only because the federal government requires it.

Common sense says those most familiar with the roads know best. But that's not the way it's done. Technically, states set the limits. But if they dare set them faster than 55 in urban areas or 65 elsewhere, they face federal financial penalties. So they go along.

Seat-belt and motorcycle-helmet laws work much the same way. Forty-eight states have belt laws, and 25 require all riders to wear helmets. But if states don't pass both, they must divert some of their highway funds to safety programs—even if the money could be used to prevent more accidents by repairing dangerous bridges or roads.

Now, there's a move afoot in Congress to remove the federal shackles. A Senate subcommittee took the first step last week. It voted to repeal the national speed-limit law and let states set the limits without coercion from Washington.

Auto safety advocates are up in arms. They look at a highway fatality rate that fell from 5.2 per 100 million miles traveled in 1968 to 1.8 in 1993, thanks in part to such laws, and predict mayhem on the highway.

But that's not likely.

State officials can read statistics, too. They don't want to be responsible for blood on the roads. They know polls show public support for safety laws. Three states rejected efforts to repeal belt laws last year, and two fought off repeal of helmet laws.

The argument today is not about whether seat-belt and helmet laws save lives, whether excessive speed kills or alcohol impairs the ability to drive. They do. The argument is about who's better suited to balance safety against sensible use of the roads.

The answer is that the states are. They, not the feds, already write the rules of the road, enforce vehicle and traffic laws, and pay the bills.

The proper federal role in auto safety lies elsewhere. Only it can force automakers to build safe cars.

Washington also is uniquely equipped to serve as a clearinghouse for information about traffic convictions and driving licenses—a role it now fills in cooperation with the states—and it serves the country well by sponsoring safety research.

But when it comes to setting speed limits and requiring seat belts, states belong in the driver's seat.

Mr. SMITH. I also ask unanimous consent that a letter from the Governor of New Hampshire, which is 2 years old, which basically forecasts problems that would be coming up with this by having mandated laws—the Governor of New Hampshire was saying that New Hampshire voluntary seatbelt use had increased through education, and I ask unanimous consent that letter also be printed in the RECORD.

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

STATE OF NEW HAMPSHIRE,
OFFICE OF THE GOVERNOR,
Concord, NH, December 22, 1993.

Hon. ROBERT C. SMITH,
Washington, DC.

DEAR SENATOR SMITH: I would like to enlist your support in opposing the diversion of highway funds under 23 U.S. Code Section 153 which, under the present conditions, will occur if the State of New Hampshire does not enact both mandatory seat belt and motorcycle helmet use laws.

I am sure that you are well aware that New Hampshire has made great progress in making our State's highways safer for all who use them. In 1982, for example, 98 of 154 highway fatalities, or 56.6%, were alcohol related. All of those numbers have decreased significantly in the interim years to a point where in 1992 only 30 of 123 fatalities, or 24.4%, were alcohol related. This represents a 20% decrease in highway fatalities, and the percentage of alcohol-related fatalities has been reduced by more than one-half.

New Hampshire's voluntary seat belt usage, which the federal government would have us mandate, has risen from 16.06% in 1984 to 50.57% in 1993. For five consecutive years, seat belt usage surveys in the State indicate that around 50% of New Hampshire's motorists are buckling up. This has been accomplished through public information programs and not through any coercion of the motorist. This means that New Hampshire has a nucleus of approximately 50% of its citizens using their seat belts not because they are forced to, but because they think it is the wise thing to do. Again, I am sure you are aware this has been accomplished while during the same time period (1982–1992) the number of drivers in the state has increased by 26%, the number of registered vehicles has increased by 49% and the population of the Granite State has increased by 17%.

The New Hampshire Legislature recognized the need for improving motorcycle safety and a Motorcycle Rider Education Program (RSA 263:34b) was enacted effective July 1, 1989. Through 1993, 2,629 cyclists had completed this program, which is entirely self-supported by fees attached to motorcycle licenses and registrations. The following is an interesting quote from the Highway & Vehicle/Safety Report of May 17, 1993, which is published by Stamler Publishing Company, 178 Thimble Islands Road, Branford, Connecticut:

''However, controversy surrounding mandatory use laws (MULS) for motorcycle helmets emerged during the recent hearing on ISTEA-related safety issues. Senator Ben Nighthorse Campbell, D–CO—himself a motorcyclist—said ISTEA's 'mandatory section simply is not working'. No helmet laws were passed in the last six months, leaving 25 states without ISTEA's Section 153, which requires the transfer of some highway funds to safety programs for states that do not enact helmet laws by this fall. He claimed that non-MULS states have 33% lower accident rates than those with MULS crediting voluntary helmet use and rider education programs.''

Any assistance you can provide to prevent this federal intrusion into our State's highway safety efforts would be greatly appreciated.

Very true yours,

STEPHEN MERRILL,
Governor.

Mr. SMITH. Mr. President, before I yield the floor, I will at this point ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wonder if I may just engage in a bit of a colloquy here with my distinguished colleague. But I see the distinguished chairman of the committee. Does the chairman wish to address the Senate on a procedural matter?

Mr. CHAFEE. Yes.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like to see if we can allocate time out to those who want to speak so we can let our colleagues know about when we are voting.

Mr. BAUCUS. If I might make a suggestion, if the Senator will yield, that is we have a vote on the amendment offered by the Senator from New Hampshire by 5 o'clock, the time equally divided.

Mr. CHAFEE. The only thing is, I am not sure how much time people will want. The Senator from New Jersey would like how much?

Mr. LAUTENBERG. The Senator from New Jersey would like probably around 10 minutes, maybe an extended 10.

Mr. CHAFEE. How about 10? Let us just work this out and see how we are doing.

Mr. LAUTENBERG. I will tell the Senator this. I would not agree at this moment to a unanimous consent agreement that cuts off debate. I have stayed here, in all fairness, and listened to the debate from the other side, and I think there are people in opposition to it.

Mr. CHAFEE. We are not going to cut anybody off. Let us say 10 minutes, and if the Senator wants more he can take more.

The Senator from Montana, the ranking Member, wants no more time. The Senator from Virginia, how much?

Mr. WARNER. Mr. President, I would be agreeable to maybe 6 or 7 minutes.

Mr. CHAFEE. Let us say 7 minutes. The Senator from Wyoming, how much time would he like?

The Senator from Ohio?

Mr. DEWINE. Ten minutes.

Mr. CHAFEE. All right, 10. So there is 20, plus 6, or 26 minutes. The Senator from Maine?

Does the Senator from New Hampshire want some time?

The Senator from Colorado?

Mr. CAMPBELL. Perhaps 5 minutes to wind up.

Mr. CHAFEE. Five minutes. Well, I think, due to the point the Senator from New Jersey made, we cannot get a time certain to vote. But I can say to our colleagues who are listening, it looks as if we will vote about 10 past 5. That is not a certain time but just about then. If people could stick fairly close to the times that they took, that would be helpful. We have not forestalled anybody from coming. If somebody else shows up, they have a right to speak. This is not an agreement that has been reached, but perhaps it is an indication how much time we will take.

Mr. WARNER. Mr. President, this is a very important issue. I commend our distinguished chairman. It is an issue that is held very deeply by a number of Members in the Senate, and I think we have had an excellent debate. I commend the distinguished chairman. I happen to align myself with the viewpoints that he has. I would like to just pose a question to my friend from New Hampshire.

Members of my family are motorcycle folks and from time to time I attend the rallies. There was a rally that I attended not more than 6 weeks ago down in the area of Hampton, VA. I have never seen a more orderly or more wonderful assemblage of motorcycle individuals. They know that I am not in favor of repealing the helmets, but there was not a person there who did not treat me with complete dignity and respect. Argue and debate with me, that they did. It is interesting; their motto is ''Let the riders decide.''

We in our State of Virginia rank ourselves second to no State in this Union with respect to independence and individual freedom. But the question I pose to my good friend is as follows. Our State, in 1971, enacted both a seatbelt and a helmet law. This chart is down now, but we had the option presumably to repeal those laws at the time the Federal law was repealed, but we did not do it because the then Governor and others, the general assembly, felt it was in the interest of the State to keep it on, so it is still on today. It is primarily for that reason, that there has been a consistency of viewpoints of the people of Virginia on these two issues, that I support them, in addition to my own personal feelings. So I feel that I am correctly representing the State.

But our drivers, knowing that there is a seatbelt law and a helmet law, as they drive in our State, I think they have a certain feeling of personal security because there is a correlation between wearing seatbelts and surviving an accident. We all know that. The safety statistics show that. But as they venture into other States, particularly as it relates to seatbelts, should there not be the use of seatbelts in those States as we have in ours, are they not taking some personal risk?

Mr. SMITH. Are people who drive in other States without the mandate taking personal risk; is that the Senator's question?

Mr. WARNER. Let us say in other States where there is an absence of law, State and Federal, seatbelts are not required, and they follow the maxim ''Let the riders decide,'' and there is a high percentage of use of motor vehicles without the use of seatbelts. Is there not some personal risk to those who travel from their State into another State and there is no seatbelt law?

Mr. SMITH. I just say to the Senator, we do not have, as he well knows, a seatbelt law in New Hampshire and our seatbelt use has increased almost 40 percent since 1984 through education and training.

Mr. WARNER. Mr. President, I saw those statistics. My good friend shared the statistics with me. But we also

know as a fact that absent a Federal law, the State legislatures come under tremendous pressure to repeal those laws.

Mr. SMITH. We are not asking you to repeal those laws.

Mr. WARNER. I understand that. But as drivers from States that are used to the seatbelt laws move about the United States into other States that do not have them and there is likely to be a higher percentage of the nonuse of seatbelts, that concerns me from a safety standpoint. I just say to my good friend, that is an added reason, and a strong one, why I support the position taken by the distinguished chairman and also will oppose the Senator's amendment.

I see the distinguished majority leader present.

Mr. SMITH. May I take 10 seconds just to say to the Senator, it sounds to me as if the Senator from Virginia is advocating a national helmet and seatbelt law rather than a State law, based on the comments that the Senator made, if the Senator is worried about going from one State to another. The point is, I think it is not that. It is a question of who makes the decision, and I do not think the Federal Government needs to make it.

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

Mr. LAUTENBERG. Mr. President, I rise to oppose the Smith amendment to eliminate Federal mandatory motorcycle helmet requirements and seatbelt requirements.

I want to say something at this moment that I said earlier in the debate on a couple of amendments, and that is that though I may differ with colleagues on the floor as to the application of law, I do not differ with them on their interests in saving lives and protecting their citizens. I want to make that clear, because though I think they are wrong, I do not think they intentionally want anybody to be hurt as a result of it. I would like to point out why I think their logic on the amendment is entirely antithetical to protecting life, limb and property.

Mr. President, I have heard so many arguments on the floor here, and many of them revolve around whether or not we are discussing life, health, safety, and I heard the Senator from Maine before say, ''No,'' in response to the Senator from New Hampshire, ''No, that is not the issue, what we are talking about is States rights.''

I do not understand that because people's lives and well-being are involved. Are we discussing process or are we discussing reality? Are we discussing the penalty that is paid for the lack of helmet use on motorcycles?

Even though I am not a resident of New Hampshire or Maine I have a deep interest in what goes on with people in our entire society.

The facts are that helmet use reduces fatality rates and severity of injury. Universal helmet rates increase helmet use and reduce deaths, and the public bears higher costs for nonhelmeted riders when they are crash victims.

In 1975, 47 States had motorcycle helmet laws covering all riders. In 1976, the Highway Safety Act was amended to remove the Federal helmet requirements. After the act was changed, 27 States, which contained 36 percent of the American population, either repealed or seriously weakened their helmet laws. In the 5 years that followed, motorcycle fatalities increased 61 percent, while motorcycle registrations increased only 15 percent.

When Colorado repealed its mandatory helmet use in 1977, its motorcycle fatality rate increased 29 percent. Conversely, States that have passed mandatory helmet laws since 1989 have seen a significant reduction in their motorcycle fatality rate when compared to the motorcycle fatality rate in their State before passage of the law.

In Oregon, there was a 33 percent reduction in motorcycle fatalities the year after its mandatory helmet law was reenacted. California experienced a 36-percent reduction when its law went into effect. In total, the National Highway Traffic Safety Administration, NHTSA, estimated that 600 riders a year are saved as a result of motorcycle helmet use.

More than 80 percent of all motorcycle crashes result in injury or death to the motorcyclist. Head injury is the leading cause of death in motorcycle crashes. Compared to a helmeted rider, an unhelmeted rider is 40 percent more likely to incur a fatal head injury and 15 percent more likely to incur a head injury when involved in a crash.

At my request, one of the leading trauma hospitals in my State reviewed its data on motorcycle accidents over the last 3 years. According to the University of Medicine and Dentistry of New Jersey located in Newark, the deaths for motorcycle accident patients that entered their hospital was 11.5 percent, and this compared with only a 7.5 percent death rate for seriously injured automobile and truck accident patients, even though the absolute number of car and truck victims was far fewer than the motorcycle accident victims.

The failure of the motorcyclists to use helmets also has placed a huge financial burden on society. NHTSA estimates that the use of helmets saved $5.9 billion between 1984 and 1992. Repeal of mandatory helmet requirements would increase the death rate for motorcycle riders by 391 people per year and would increase costs to society by $380 million a year.

In these days when we are discussing skimpier budgets I do not understand what it is that makes a Federal mandate so onerous that we all ought to pay extra funds for taking care of hapless victims of motorcycle accidents.

When motorcyclists say they want Government off their backs and they want to ride bareheaded against the world, it is important to realize that there is a bill that has to be footed.

Now, I know that each of my friends here on the floor has not dissimilar experiences to me and you have visited hospital trauma wards and seen what happens with motorcycle riders who are involved in crashes.

I have seen many in my State. The most serious of injuries. My State is no different than any other. We are a little more crowded, but we are normal people just like anybody else.

The most serious injuries are those incurred by motorcyclists, often paraplegics or quadriplegics. There is nothing worse for a family to endure—nothing worse—than to see a child or a family member wind up a paraplegic. But it happens, and motorcyclists do have a different risk than automobiles.

We cannot use helmets, as was suggested. We do not need them in automobiles because we have roofs, we have roll bars, we have airbags, we have seatbelts. We have all kinds of devices to protect the driver and the occupants. That is why we continue to see declines in fatality and injury rates in automobiles, despite increasing traffic.

This amendment also eliminates federal seatbelt requirements, I find it amazing. Seatbelt use reduces the risk of a fatal or serious injury by 40 percent down to 55 percent—that much of a difference, Mr. President, 40 to 55 percent.

National seatbelt rates have gone from 13 percent in 1982 to 67 percent in 1994. Four States now have these laws. We, as a country, still travel virtually every developed nation in the world in seatbelts.

In those States with seatbelt laws, use rates average 67 percent. With strong enforcement and extensive public education, some States have been able to reach the use rate of 80 percent. Use of safety belts saved more than 40,000 lives and prevented more than 1 million injuries from 1983 to 1993. It saved $88 billion. Each year, safety belt use prevents an estimated 5,500 deaths and nearly 140,000 injuries. It saves taxpayers more than $12 billion annually.

Mr. President, 76 percent of Americans oppose weakening or repealing safety belt laws, and 61.9 percent believe doing so will place a greater burden on taxpayers. I get that information from the Advocates for Highway Auto Safety, who prepared that data.

We see all kinds of savings of lives and savings of injuries as we encourage helmet use, as we encourage seatbelt use.

I know one thing that saved a lot of lives—young lives—was the mandatory drinking age, at age 21. That law was written in 1984, and since that time we have saved more than 14,000 youngsters from dying on the highways. It is a good law. It also is under attack, not at the moment, but it is under attack.

We have heard it from the House that there are Members, one from Wisconsin, who want to eliminate the 21 drinking age bill, as well as seatbelts, as well as speed limits, as well as motorcycle helmets. He would eliminate

all those things because it is a matter of pride and States rights.

Who foots the bills? Every citizen in America pays the bills for these removals. I will resist it, and I hope that this Senate will resist it.

What I have heard is that this State or that State stands to lose money. For heaven's sake. How about the lives that they lose if they do not have the laws in place or have the requirements in place? Talk about mandates, mandates saving lives, saving injuries, saving the health and well-being of their citizens. Is that such an onerous burden, that we will take away these protections that we have developed over a long period of time?

When it comes to the statistics, we hear them kicked around here pretty good. We hear about the reduction in fatalities or injuries in this place; then I hear just recited the number of injuries, fatalities, and destruction of property in another place. The question is, are we comparing apples to apples and oranges to oranges? I am not sure.

Mr. President, I hear the words, I listen to the debate. Frankly, I do not understand what it is we are trying to do here. I think we ought to hold fast to the laws that have been developed.

So I think the argument is bogus. I think the States rights argument is hollow when it comes to saving lives and reducing injuries and reducing costs.

I hope, Mr. President, that we will be able to defeat this amendment.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Maine.

Mr. COHEN. Mr. President, I would like to address the issue of motorcycle helmet laws just referred to by my colleague from New Jersey. Senator Snowe apparently plans to offer her amendment at a later time to the legislation, an amendment to repeal the penalties levied under section 153 of the Intermodal Surface Transportation Efficiency Act [ISTEA] on the States that do not impose mandatory helmet use by motorcyclists.

I find the statement just made somewhat ironic: What about all of the fatalities suffered by those who ride motorcycles, what about the loss of a limb, the serious accidents, the productivity losses attributable to accidents?

It would seem to me that States would have an equal interest. States are not immune to concern for their citizens. Why is it that one-half of all the States in this country do not have mandatory helmet laws? They have a vested interest in keeping Medicaid expenses from being excessive and going up. They have an interest in not having their citizens become paraplegics. They have an interest, it seems to me, in helping to protect their citizens' lives.

Why is it that they have refused to impose helmet laws? I think it is because there is a division of opinion on the issue of helmet laws. With regard to safety belts, there seems to be a general consensus that they do, in fact, help reduce fatalities and the severity of injuries in serious accidents. But there still is dispute with respect to motorcycle accidents and helmets.

Between 1980 and 1993, motorcycle accidents and fatalities declined by some 53 percent each, Mr. President. Now, these downward trends in accidents and fatalities were well underway before we passed ISTEA and section 153 in 1991.

So the decline in the accidents and the fatalities cannot be attributed to the passage of a law in 1991.

Mr. CHAFEE. May I make a point?

Mr. COHEN. I am happy to yield to the Senator.

Mr. CHAFEE. It is important to remember that many States had passed the mandatory helmet law previous to 1993; in other words, in 1991 and 1992: Texas, Florida, North Carolina, California, New York, and so forth.

Mr. COHEN. If that were the case, then it seems to me that the States which had the mandatory helmet laws would have the best safety records. But that, I think, as Senator SNOWE has clearly pointed out, does not seem to be borne out by the facts.

We would assume those who have the mandatory helmet laws have the best records. In fact, over one half of the States with the lowest fatality rates per 100 accidents over the past several years have not had helmet laws.

Even though Texas, California, and other States have mandatory helmet laws, we cannot draw a causal connection in this case, because Maine, which does not have a mandatory helmet law, had the second lowest fatality rate in the country in 1993, which is the last year for which statistics are available.

I think a lot of it is due to the fact that we have safety education programs. Senator SNOWE has talked at length about this, but back in 1991, Maine started requiring all applicants for a motorcycle learner's permit to take an 8-hour safety course. Anyone who offers the safety instruction must be certified by the State.

Senator SNOWE has talked about the United Bikers of Maine [UBM]. UBM members have taken the lead in developing and offering the safety course to beginners. They have augmented it with a road training course, which most beginners take, although the State does not require it. Now, the UBM offers refresher and advanced safety courses and road training for experienced riders, as well. So I think what we have in Maine is a very serious education program and, as a result of that program, we have seen fatalities drop.

In 1991 we had 30 motorcycle fatality accidents. In 1992, the number dropped to 21. In 1993, fatalities declined to 10. We had the second lowest fatality rate per 100 motorcycle accidents in 1993. It is due, in my judgment, to motorcycle safety training, these courses that are being conducted.

I have met with the UBM members on a number of occasions, I must tell you, both here in Washington and back home. I would say I have been struck, as I know my junior colleague has, by the seriousness with which they approach motorcycle riding. These are serious-minded men and women who take what they are about very, very seriously. They have taken the leadership role in our State to ensure that concomitant with motorcyclists' freedom to ride without a helmet is the responsibility to ride safely.

They have pointed out that there is great division within their own membership. Many of the members wear motorcycle helmets all on their own. They are not required to do so. They wear them. But there are others who maintain that wearing a helmet obscures their vision, it obscures their hearing, it produces fatigue and whiplash, and induces a false sense of security, especially among younger, less experienced riders.

You can debate that. They are out riding. You and I are not out there on the bikes riding every day. Were I to do so, in all likelihood I would probably wear a helmet. But I must defer to those who ride on a regular basis, since there is a division of opinion on this.

If we look at the record, the record would seem to indicate that Maine does all right. Maine does all right by any standard. The question is, Why is it necessary now for the Federal Government to mandate that Maine impose a mandatory helmet law or divert funds necessary for road repair and maintenance to a safety programs that is sufficiently self-financed by motorcyclists already? Why are we going to penalize the State of Maine? Maine needs all of the money it receives to address a growing backlog of road repair, maintenance and improvement projects, a backlog that threatens all motorists. We want to penalize the State in order to force its compliance with this law, when the State is making pretty good progress all on its own? The State of Maine is doing all right in terms of its safety programs.

So I intend to support the Senator from Maine, Senator SNOWE, when she offers her amendment later today or tomorrow, because I believe the States feel an obligation to look after their citizens. Many of them feel the same commitment to safety as we do here in Washington. It would seem to me Senator SNOWE makes a valid point when she talks about what the elections of last November revealed. Many people feel that we in Washington intrude too frequently upon decisions that they feel they can make at the local or State level just as adequately or better than we can.

So when she offers her amendment, I intend to support it at that time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I rise in strong opposition to this amendment. I understand the philosophical argument, the States rights argument that

has been made on this floor. I think it has, certainly, some validity. It's a philosophical argument. It is an argument about what the Federal Government should do and what the States should do.

But as I concede to the other side on this issue, I hope they would also understand that does not tell the full story. This is not an abstract debate about States rights. As I said this morning in the debate, what we do in this Chamber has consequences. There is no greater example than what we are about today. There will be consequences, and they are not just philosophical. They are not just abstract. They are practical, life and death consequences based on what we do today.

So let us not just say it is a philosophical debate and you are either for States rights or you are against States rights. I do not think too many people would look at my record over the years and say I am against the States. I spent over half of my career at the county level and State level, not here in Washington. But I think this debate is about a lot more than just philosophy and a lot more than just States rights. I think it is about lives.

We debated earlier today my amendment and the amendment of Senator LAUTENBERG that we offered to deal with speed. We lost that amendment.

Basically what this Senate said, what the will of the Senate was this morning—and I certainly respect that—is the Federal Government is going to back off. The green light is out. We no longer have any national interest in the issue of speed on interstate highways. I respect that. I disagree with the decision by the Senate, but I certainly respect that.

Now we are back on the floor with an amendment that says the Federal Government has no interest, we have no interest as a nation, in the issue of seatbelts. I really cannot believe we are here talking about this.

I was not going to become involved in this debate. I thought enough this morning was enough. But as I listened to the debate on the floor, I frankly felt compelled to come over here and talk, and talk about an issue I feel very, very deeply about. Do we really want the legacy, or one of the legacies of this Congress, of this Senate, to be for the first time in years we will say we do not care about seatbelts, who wears them and who does not? We do not care about speed? I think that would be a sorry legacy for this Congress. It may occur, but it will not occur with this Senator's vote.

I mentioned I have spent over half of my career at the county level and State level. One of my elected positions over the last 20 years was as Lieutenant Governor of the State of Ohio. My job as Lieutenant Governor was to oversee our anticrime and our antidrug efforts. I had at various times five or six different agencies that reported directly to me on behalf of the Governor. One of the departments that reported directly to me was the department of highway safety. So I have been intimately involved with this issue over the last 4 years. Prior to that time I was a State senator in Ohio. I wrote our drunk driving law. So I have lived with this.

We used to say, when we went around and talked about highway safety when I was Lieutenant Governor and when we tried to institute programs—we used to say there were three things that caused auto fatalities. This was kind of an oversimplification, but I think it did not miss it by far. There were three things: use of seatbelts, drinking and driving, and speeding. You can just about categorize every single auto fatality into one of those categories. So, if you are trying to cut down on auto fatalities, you have to deal with those three issues.

We have already said we do not care about the issue of speed. Now we are preparing, possibly, to say we do not care about the issue of seatbelts. I think that would be a tragic mistake.

I understand that my colleagues, for whom I have a great deal of respect, the Senator from New Hampshire, the Senator from Maine —their argument is really that is not what we are saying. We are not, by this action today, repealing any seatbelt law. We are not by this action today repealing any speed laws. Mr. President, that is technically true. That is true. But that does not tell the entire story, and I think it misleads a little bit to only say that, because I think we know what the consequences of our actions are.

Is there anyone in this Chamber who believes that virtually every State in the Union would have passed seatbelt laws when they did but for the action of the National Congress? I do not think anybody here would claim that. Just as I do not think there is anybody here who would stand up here with a straight face and say that with the action we took this morning, the action we may take this afternoon, the action with speed, the action with seatbelts, that some States will not change what they are doing. They clearly will. We will have a retrenchment. We will have a retrenchment in two areas that every expert that I have ever heard from, anybody I have ever talked to who knows anything about this issue, has said: These are key—speed, seatbelts—you will save lives. Cut down the speed and if people wear seatbelts, you will save lives.

I have yet to hear in the debate today anybody come up and cite an expert who says that is wrong. So I think this would be a sad legacy for this Congress. I think for those who say it is a philosophical debate, I again emphasize it is more than a philosophical debate. It is a question of lives.

For those who say we are really not repealing the speed limit, we are really not repealing seat belt laws—yes, that is technically true. But, no, it does not tell the full story.

So the action we take today will affect lives. As I said this morning when we talked about speed—and I will say the same thing again about seatbelts—if you have less use of seatbelts, if you have higher speed, more people will die. And that is the natural consequence of what we appear to be about ready to do.

So, I will in a moment yield the floor. But I believe this is a debate of great significance. I have been a States rights supporter for years. I do not think anyone would look at my record and argue with that. But that is not the entire debate today. The entire debate today has to look at what works and what does not work; what makes a difference and what does not make a difference. Let me say the evidence is absolutely overwhelming, the jury has returned. The jury is back. Seatbelt use makes a difference, and that is why I oppose the amendment of my colleague, Senator SMITH.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I ask unanimous consent to add Senator BROWN as a cosponsor of my amendment.

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

Mr. SMITH. Mr. President, I would just like to take about a minute or two to conclude here, to say I listened very closely to my colleague from Ohio. We are not opposed to the use of seatbelts. This amendment does not preclude the State of Ohio or any other State from having seatbelts.

Mr. DEWINE. Will the Senator yield on that?

Mr. SMITH. Yes.

Mr. DEWINE. Does the Senator believe this amendment—I do not think he would have offered the amendment, though, if he did not think there would be some consequence to it? That there would be a change by the States?

Mr. SMITH. There is no change.

Mr. DEWINE. I am sorry?

Mr. SMITH. I say to my colleague——

Mr. DEWINE. The States will take no—no actions will be changed at all?

Mr. SMITH. No, nothing. Nothing. We are simply asking that States like Maine and New Hampshire that choose not to have mandatory seatbelt laws and/or helmet laws, in this case Maine and New Hampshire, mandatory helmet or seatbelt—we are simply asking that we not be penalized and be told to spend additional dollars on safety programs that we are already spending dollars on. We would rather use that money for highways to save lives.

Mr. DEWINE. If the Senator will continue to yield for just a moment?

Mr. SMITH. Yes.

Mr. DEWINE. I understand his position. But does the Senator believe, though, that with the other 48 States there will not be some change? Just as there will be change in action in regard to the speed?

This is not just a philosophical debate. This is a practical debate for your

State but it is also a practical debate for the other 48 States as well.

I cannot believe that this amendment will not lessen the use of seatbelts or at least the laws on the books, just as the debate this morning on the bill, the way it is written, will not—some States will not change speed limits?

I mean, the amendment would not have been offered this morning or the bill would not have been written this way if people did not think that was true. So I mean it is not just a philosophical debate. It has consequences, it seems to me.

Mr. SMITH. The point is the amendment which I have written in conjunction with others is not to punish anyone. It is the opposite. It is to stop punishing. The State of Ohio, for example, was penalized over $9 million because the Senator's State does not have a helmet law.

Mr. DEWINE. That is right.

Mr. SMITH. And my point on that is it does not matter to me whether Ohio has a helmet law or not. That is up to Ohio. It is not up to Washington. So if Ohio chooses not to have a helmet law but chooses to spend a lot of money in safety to enhance and to educate people to wear helmets, I would like them to have that $9 million to spend on the highways in Ohio, to repair bridges, potholes, and other things in Ohio, because that is the State's decision. That is all my amendment does. It does not stop Ohio from having seatbelts. It does not stop Ohio from getting money for having seatbelt laws or educating people to wear them or not wear them—not at all.

Mr. DEWINE. If the Senator will yield, I was directly involved in the spending of that $9 million. That money was, in fact, as the Senator can tell by the legislation, used on highway safety issues. Many people in Ohio were very upset about that, obviously, and have been upset about it.

My only point in asking the question is a statement was made, basically, we are not telling anybody what to do. I understand that. My only point though is that there are consequences to what we do. There are consequences to what we do not do.

My point is pretty simple. My point is that there will be a change in the use of seatbelts. There will be a change in what States do, just as there will be a change in regard to when we took the red light off and put the green light on this morning on speed limits. We are going to see a change. Because you will see that change, there will be other changes, and the other changes, I believe—the evidence is absolutely overwhelming—means that more people are going to die. There is no doubt about it.

Mr. SMITH. Does the Senator from Ohio believe that his decision should take precedence over the Governor of Ohio, or the Lieutenant Governor?

Mr. DEWINE. I have not talked to the Governor about this issue.

Mr. SMITH. I have not either. But my point is these are decisions that ought to be made at the State and the individual level. Let me give an example, because the Senator asked about the record.

In New Hampshire—I am not sure the Senator was here on the floor at the time this was discussed—in 1984, 16 percent of the people in New Hampshire, according to statistics that we had at the time, used seatbelts. Without a mandate, with spending money on safety programs, we now have about 55 percent of our people in the State of New Hampshire using seatbelts. There was no Federal mandate. I would be willing to bet you that in the next 10 years, that number will increase even more because we are spending money on education programs. But if I said to you, you need to build a fence between your neighbor's yard and your yard, and it is going to take five post holes, if I said to you, ''You have to dig a sixth post hole or you don't get the money for the fence,'' what is the point of digging the sixth post hole? You need the fence, you need the money for the fence, but you do not need the extra post hole. That is all we are doing here.

You are simply mandating the State of New Hampshire and the State of Maine and other States who do not have the one law or the other to spend money where they do not want to spend money, where they are spending enough money, and they simply want to put that money somewhere else. That is the issue.

Mr. DEWINE. If the Senator will yield one last time, the Senator has been very generous with his time because I realize he has the floor. I just believe all those Senators were eloquent on the issue that we have come so far in this country in reducing fatalities, we have done it in many ways—with seatbelts, airbags, with better designed highways and cars. We have come a long way. I do not see how this debate can totally be viewed as a States rights debate. To me, yes, it is partially a States rights debate. I happen to have some feelings about that in regard to the Interstate Highway System that we build with the tax dollars. It is an Interstate System in interstate commerce. Clearly, Congress can have some uniformity in this area. That is really not my point.

My main point is we have come a long, long way in trying to save lives. I think we are turning the clock back with what we did this morning, and what we may do in a moment, if we pass the Senator's amendment. We would be turning the clock back, having sent the wrong signal. I think it is moving in the wrong direction, and I think it is ill-advised.

I respect the Senator's position. I will yield back to him at this point.

Mr. SMITH. I thank the Senator. Let me finish on this point.

I am certainly not interested in rolling back the clock on highway safety or on saving lives. My amendment does not do that. I just point out to my colleagues that of the 10 safest States in which you ride a motorcycle, 7 do not require a mandatory helmet use for adults. In New Hampshire, which does not have mandatory helmet and seatbelt laws, it has been ranked as one of the five States with the best highway safety record in the Nation on a per capita basis.

So I do not think the connection is there. It is not an issue of whether we want to save lives or not. No one is even hinting that we are not interested in saving lives. I hope the people look at the amendment for what it says, and not what the emotions of the argument are. But look at the facts, and the facts are do not punish anybody. We simply ask that we be allowed to receive the funds that we are entitled to and to spend it on repairing highways so that we can have safer highways in the State of New Hampshire and the State of Maine and the State of Tennessee, and every other State, and not be penalized by forcing us to either spend money for something we do not need to spend it on, or not getting it to spend it all.

I yield the remainder of my time.

Mr. CHAFEE. Mr. President, I would like to commend the Senator from Ohio because I think he put his finger right on the point. It is not that nobody wants to have more highway deaths. It is not that anybody wants to see more people terribly injured. But the facts are that, if this bill passes, the States will be under tremendous pressure, just as they were in 1976 after 10 years of experience with the mandatory law—the mandatory law was repealed in 1976—and 27 States repealed the laws they had dealing with mandatory seatbelts and helmets.

It follows as night follows day. It is not the intention of the Senator from New Hampshire, but that is what is going to happen as sure as we are standing here.

So, therefore, a vote for the amendment of the Senator from New Hampshire, inadvertent though it might be in his judgment, is clearly going to result in increased deaths on motorcycles and in automobiles in our country. The statistics show it. There is no difference between what we are doing here than what took place in the 10-year period from 1966 to 1976. Sometimes, you learn from experience. This is clearly a case where we can learn from experience.

I know the Senator feels that in his State—and the Senator from Maine and some other States—they ought to have the privilege to do what they want. But I think we have some responsibilities as Senators. Yes, it is a financial drain on us and our Nation if we do not pass this law. I do not think there is any debate about that; that is, if we do not maintain the laws dealing with seatbelts and motorcycle helmets.

We had testimony. Just talk to anybody, to any physician who serves in an emergency room, for example. They all

will tell you that absent seatbelts, accidents are 10 times more grievous. It is the same with helmets.

It is so ironic that the motorcyclists will campaign to get rid of mandatory motorcycle helmet use, and yet in their meets, in their sanctioned meets, they will require it. They require the use of a helmet. But for us to impose it—it is all right for them to do it in their meets, but if we say you have to have such a law or you lose some money, obviously an inducement to pass a law, somehow we are infringing on their freedoms.

Mr. President, there are various bills that come through here which we all vote on at different times. I suppose so far this year maybe we have had, I do not know, 100 rollcall votes, or something like that. Sometimes we vote on bills, and, ''Oh, well. It could go this way or that way. We don't have much deep feeling about it.'' But I tell you, I have a very deep feeling about this legislation. I think we would be making a terrible mistake if we approved the amendment that we are going to vote on in a few minutes.

I know the Senator from Colorado wanted to speak.

Mr. CAMPBELL. To shorten the debate, I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Hampshire. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Indiana [Mr. COATS] is necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] and the Senator from Washington [Mrs. MURRAY], are necessarily absent.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY], would vote ''aye.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 45, nays 52, as follows:

[Rollcall Vote No. 271 Leg.]

YEAS—45

Abraham	Gregg	Nunn
Ashcroft	Hatch	Packwood
Bennett	Helms	Pressler
Brown	Inhofe	Robb
Burns	Kassebaum	Roth
Campbell	Kempthorne	Santorum
Cochran	Kyl	Shelby
Craig	Leahy	Simpson
Dole	Lott	Smith
Domenici	Lugar	Snowe
Feingold	Mack	Specter
Graham	McCain	Stevens
Gramm	McConnell	Thomas
Grams	Murkowski	Thompson
Grassley	Nickles	Thurmond

NAYS—52

Akaka	Bradley	Cohen
Baucus	Breaux	Conrad
Biden	Bryan	Coverdell
Bingaman	Bumpers	D'Amato
Bond	Byrd	Daschle
Boxer	Chafee	DeWine
Dodd	Hollings	Moseley-Braun
Dorgan	Hutchison	Moynihan
Exon	Jeffords	Pell
Faircloth	Johnston	Pryor
Feinstein	Kennedy	Reid
Ford	Kerrey	Rockefeller
Frist	Kerry	Sarbanes
Glenn	Kohl	Simon
Gorton	Lautenberg	Warner
Harkin	Levin	Wellstone
Hatfield	Lieberman	
Heflin	Mikulski	

NOT VOTING—3

Coats	Inouye	Murray

So the amendment (No. 1437) was rejected.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 1438

(Purpose: To prohibit the funding of new highway demonstration projects)

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, Mr. FEINGOLD, and Mr. SMITH, proposes an amendment numbered 1438.

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 amendment is as follows:

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

SEC. 1 . PROHIBITION ON NEW HIGHWAY DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Notwithstanding any other law, neither the Secretary of Transportation nor any other officer or employee of the United States may make funds available for obligation to carry out any demonstration project described in subsection (b) that has not been authorized, or for which no funds have been made available, as of the date of enactment of this Act.

(b) PROJECTS.—Subsection (a) applies to a demonstration project or program that the Secretary of Transportation determines—

(1)(A) concerns a State-specific highway project or research or development in a specific State; or

(B) is otherwise comparable to a demonstration project or project of national significance authorized under any of sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2027); and

(2) does not concern a federally owned highway.

Mr. McCAIN. Mr. President, I would like to explain the amendment. I apologize to the Senator from Maine if there was a misunderstanding on the sequence.

Mr. President, the amendment that I offer, along with Senators FEINGOLD and SMITH, would prohibit the use of highway funds for future—and I emphasize ''future''—demonstration projects which have not already been authorized or started upon the date of enactment of this measure. Let me say it again. No demonstration project now authorized for which money has been appropriated will be affected by this amendment.

The amendment states that Congress will approve no new highway demonstration projects. This is strongly supported by the National Taxpayers Union and Citizens Against Government Waste, two organizations which exert a great amount of energy trying to reduce wasteful spending.

The problems associated with diverting Highway Trust Fund money to pay for congressionally earmarked highway projects are well documented and have been debated before. But, regrettably, the practice of taking taxpayer dollars that would otherwise be allotted to the States fairly for their priorities, so that Members can fund hometown projects—projects which may have absolutely nothing to do with the States' transportation problems—continues, and it demands our attention. Over the last 2 fiscal years, Congress has earmarked more than $2.7 billion for highway demonstration projects in select States—that is $2.7 billion which could have and should have been distributed to all States on a fair and equitable basis.

The President's budget request recommends the cancellation of these so-called demonstration projects. As stated in the President's budget:

> Such projects have been earmarked in congressional authorization and appropriations laws. These projects limit the ability of the States to make choices on how to best use limited dollars to respond to their highest priorities.

Vice President GORE has also raised serious concerns about these so-called demonstration projects. As he stated in Reinventing Government:

> GAO also discovered that 10 projects—worth $31 million in demonstration funds—were for local roads not even entitled to receive Federal highway funding. In other words, many highway demonstration projects are little more than Federal pork.

The Reinventing Government report went on to say:

> Looking specifically at the $1.3 billion authorized to fund 152 projects under the 1987 Surface Transportation and Uniform Relocation and Assistance Act, GAO found that ''most of the projects . . . did not respond to States' and regions' most critical Federal aid needs.

Unfortunately, Congress continues to avail itself of its most favored projects. The amendment I am offering does not go as far as the President's recommendation. It would not cancel any current highway demonstration projects or projects which have been authorized. It would only prohibit future demonstration projects.

Now, Mr. President, I want to be clear. I have tried before to kill these things. I have tried to get rid of them. I have had amendment after amendment to try to stop these. I am aware if I try to stop projects that have already been authorized and appropriated, I would fail. But I appeal to

the good sense and decency of my colleagues to at least stop this in the future. That is what this amendment is all about.

I am not asking the Senate to go as far as last year's amendment. I realize that Members from States with projects in the pipeline find it very hard to vote for cuts. I am only asking that we state clearly that earmarking is not how Congress will do business in the future.

Mr. President, I recently asked the Federal Highway Administration to calculate, by State, the amount of highway funds which have been earmarked over the last 2 fiscal years and to identify how this money would have been distributed if subject to the normal highway allocation formula. The results are hardly surprising. Thirty-three States received less money because of the earmarks. The taxpayers of these 33 States, who sent their money to Washington in the form of taxes, did not get an equitable amount in return because of the inequitable practice of earmarking highway demonstration projects.

Listed here are the 33 States which have been shortchanged. That word ''demo'' here has no reference to political party. It means demonstration projects. Of these 33 States, I notice the State of Washington is missing, I say to my friend from the State of Washington.

Mr. President, 33 States receive less money because of the earmarking practice. The taxpayers of these 33 States have not received their equitable share of highway funds. Every year they send their tax dollars to Washington with the expectation that the funds for highway projects will be distributed fairly. Something happens before the money is distributed. The process is twisted by the process of earmarking. I am not saying all congressionally earmarked projects are without merit. Many have great merit. Many others, however, do not.

Surely, no one in the Congress is without blemish. If a project has merit, it should be a priority under the State transportation plan. As President Clinton said, highway aid should be distributed fairly according to the established formula so the taxpayers' dollars could be spent according to the priorities established with such great care and expertise by those best qualified to do so—the individual States.

Mr. President, the amendment is a modest step toward reform. The current process, in my view, does not serve the public. It should be stopped.

I hope my colleagues will support me in this amendment.

Mr. President, I ask unanimous consent that a memorandum from the U.S. Department of Transportation, Federal Highway Administration, concerning distribution of earmarked demonstration funds, be printed in the RECORD.

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

U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION: TECHNICAL ASSISTANCE TO THE OFFICE OF SENATOR JOHN McCAIN

[Distribution of earmarked demo Funds based on the fiscal year 1995 distribution of the Federal-aid obligation limitation, June 15, 1995

State	Actual distribution of fiscal year 1994–1995 earmarked demos	Hypothetical distribution based on the fiscal year 1995 FAH limitation distribution	Difference
Alabama	63,844,784	46,248,098	(17,596,686)
Alaska	0	37,230,992	37,230,992
Arizona	4,389,600	34,031,360	29,641,760
Arkansas	139,470,486	28,305,175	(111,165,311)
California	140,881,126	225,435,520	84,554,394
Colorado	1,067,200	32,723,857	31,656,657
Connecticut	29,887,200	56,883,084	26,995,884
Delaware	0	12,001,264	12,001,264
District of Columbia	8,132,800	15,592,153	7,459,353
Florida	72,526,891	90,744,077	18,217,186
Georgia	44,693,584	71,767,571	27,073,987
Hawaii	5,708,000	19,494,218	13,786,218
Idaho	25,907,200	20,495,039	(5,412,161)
Illinois	153,438,774	104,048,256	(49,390,518)
Indiana	49,048,200	53,509,800	4,461.600
Iowa	56,030,827	35,367,547	(20,663,280)
Kansas	25,641,400	33,250,933	7,609,533
Kentucky	46,498,800	39,206,485	(7,292,315)
Louisiana	36,647,123	42,562,594	5,915,470
Maine	68,852,800	14,546,001	(54,306,799)
Maryland	61,164,800	57,501,218	(3,663,582)
Massachusetts	1,959,168	128,102,623	126,143,455
Michigan	92,117,080	68,433,290	(23,683,790)
Minnesota	81,441,320	46,551,977	(34,889,343)
Mississippi	11,833,197	30,166,296	18,333,100
Missouri	55,931,864	57,244,683	1,312,819
Montana	7,124,000	28,259,211	21,135,211
Nebraska	11,207,360	22,815,133	11,607,773
Nevada	41,252,914	18,069,114	(23,183,800)
New Hampshire	11,812,800	13,838,602	2,025,802
New Jersey	98,667,200	86,770,076	(11,897,124)
New Mexico	14,274,400	30,789,792	16,515,392
New York	150,313,547	157,276,319	6,962,772
North Carolina	65,051,600	66,112,858	1,061,258
North Dakota	26,128,000	18,084,249	(8,043,751)
Ohio	61,064,880	100,514,361	39,449,481
Oklahoma	29,737,220	36,242,397	6,505,177
Oregon	21,928,000	34,699,182	12,771,182
Pennsylvania	345,858,280	144,496,236	(201,362,044)
Rhode Island	21,126,880	16,786,071	(4,340,809)
South Carolina	14,241,600	30,789,683	16,548,083
South Dakota	8,888,960	20,473,729	11,584,769
Tennessee	16,196,192	55,184,502	38,988,310
Texas	109,697,114	168,356,581	58,659,467
Utah	7,011,200	21,684,270	14,673,070
Vermont	7,360,000	12,864,339	5,504,339
Virginia	61,636,000	61,668,894	32,894
Washington	39,280,800	38,727,527	(553,273)
West Virginia	212,335,480	27,595,907	(184,739,573)
Wisconsin	26,312,000	47,489,922	21,177,922
Wyoming	7,360,000	18,724,203	11,364,203
Puerto Rico	0	13,223,382	13,223,382
Total	2,692,980,651	2,692,980,651	0

Mr. McCAIN. Mr. President, I had a couple more charts here.

President Clinton, in his budget request, said, ''Such highway demonstration projects should compete for funds through the normal allocation and planning processes within the Federal-aid highways grant program.''

Mr. WARNER. Could I ask the Senator if he desires a rollcall vote on this? If so, I would suggest he order the yeas and nays and let the Senate know.

Mr. McCAIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. McCAIN. I thank my colleague from Virginia.

I will not take any longer on this issue. It is one that has been debated in this body for quite a while. I want to emphasize again, this does not affect any already authorized or appropriated highway demonstration project.

Mr. President, in February 1994 there was a very interesting article in the Orlando Sentinel. It had some very interesting information where it says:

The money used for demo projects amounts to less than 5 percent of the $20-billion-a-year federal highway program. But transportation experts—including those at the General Accounting Office—say this is money not well spent.

''In 1991 we found that about half of the demonstration projects we reviewed did not appear on state or regional transportation plans,'' GAO official Kenneth Mead told a congressional committee last year. As such, the demo projects leapfrogged what local transportation officers had set as priorities.

''Some (demo projects) are probably questionable, and I'm being charitable with that description,'' said Florida Transportation Secretary Ben Watts. ''I think a lot of times the only thing they demonstrate is that you can get a demonstration project.''

Mr. President, I would not be quite that harsh in my description of what a demo project is, but it is time we really restored equity to all the States in this country.

I believe we can do that through an equal distribution through the existing highway formula rather than earmarking demonstration projects. I yield the floor.

Mr. GLENN. Mr. President, I rise in support of the Senator from Arizona. He and I have talked about some of these things before.

We have done studies. We have had GAO studies done. And every time we come to something like this, we do this and we say we do not want to offend somebody over in the House or here that has one of these special projects that is not really needed.

The President has addressed this. He did not want these types of things in the budget this year. The Senator from Arizona cited from several studies that have been done on this as one of the most wasteful things in the budget.

I hope we can support this. I am glad he called for the yeas and nays. I plan to support it. I urge my colleagues to do the same. I thank you.

Mr. BAUCUS. Mr. President, I, too, urge the Senate to support the Senator from Arizona.

I remind the Senate we would not be here tonight debating this bill if this amendment in effect were law. That is, last year we had the NHS bill up. It did not pass the Congress. Why? Because it got loaded up with demonstration projects.

I just think that the day has now passed—it should be past—that we load the bills up with demonstration projects. States can decide for themselves how to spend highway funds.

I strongly urge the support of this amendment. It will be a good day for, frankly, good government and for cleaning up the appropriations process and even cut down a little bit of deficit reduction if we adopt this.

Mr. WARNER. Mr. President, I would like the attention of the Senator. I support the amendment. If there is no further debate, I would urge its adoption.

Mr. KYL. If the Senator would yield, I would like to express my support for the amendment of my colleague from Arizona.

For all of the reasons that he stated, it is about time we did this. I think everyone who has spoken has confirmed the need for this amendment.

I wholeheartedly support the amendment of my colleague from Arizona.

Mr. WARNER. Mr. President, for the information of Senators, the managers will remain on the floor in the hopes to clear such amendments that will not require rollcall votes. I anticipate that the leadership will soon be advising the Senate with respect to rollcall votes.

Tomorrow, it would be my recommendation to the leadership that the Snowe amendment be the first amendment up for purposes of a rollcall vote.

Mr. CHAFEE. Mr. President, I commend the Senator from Arizona for his amendment. I think it is good. I will support it. We will vote for it. And I also commend him for the excellent remarks he made about Senator KERREY and Senator KERRY's splendid achievement.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 1438, offered by the Senator from Arizona.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Indiana [Mr. COATS] and the Senator from Alabama [Mr. SHELBY] are necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] and the Senator from Washington [Mrs. MURRAY] are necessarily absent.

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

The result was announced—yeas 75, nays 21, as follows:

[Rollcall Vote No. 272 Leg.]

YEAS—75

Ashcroft	Ford	Mack
Baucus	Frist	McCain
Biden	Glenn	McConnell
Bingaman	Gorton	Moseley-Braun
Bradley	Graham	Moynihan
Brown	Gramm	Murkowski
Burns	Grams	Nickles
Byrd	Grassley	Nunn
Campbell	Gregg	Packwood
Chafee	Hatch	Pell
Cochran	Helms	Pressler
Cohen	Hollings	Pryor
Conrad	Hutchison	Robb
Coverdell	Inhofe	Rockefeller
Craig	Kassebaum	Roth
D'Amato	Kempthorne	Simon
Daschle	Kennedy	Simpson
DeWine	Kerrey	Smith
Dodd	Kerry	Snowe
Dole	Kohl	Stevens
Domenici	Kyl	Thomas
Dorgan	Leahy	Thompson
Exon	Lieberman	Thurmond
Faircloth	Lott	Warner
Feingold	Lugar	Wellstone

NAYS—21

Abraham	Bumpers	Lautenberg
Akaka	Feinstein	Levin
Bennett	Harkin	Mikulski
Bond	Hatfield	Reid
Boxer	Heflin	Santorum
Breaux	Jeffords	Sarbanes
Bryan	Johnston	Specter

NOT VOTING—4

Coats	Murray
Inouye	Shelby

So, the amendment (No. 1438) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WARNER. Now, Mr. President, that was the last vote of tonight by rollcall. It is the desire of the managers, however, to try and clear up a few amendments which have been agreed to.

AMENDMENT NO. 1439

Mr. WARNER. At this time, Mr. President, I send to the desk an amendment on behalf of Senator THURMOND, Senator HELMS, Senator FAIRCLOTH, and myself, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. THURMOND for himself, Mr. HELMS, Mr. FAIRCLOTH, and Mr. WARNER, proposes an amendment numbered 1439.

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

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

The amendment is as follows:

On page 34, strike lines 17 through 24 and insert:

''(dd) United States Route 220 to Untied States Route 1 near Rockingham;

''(ee) United States Route 1 to the South Carolina State line;

''(ff) South Carolina State line to Charleston, South Carolina; and''.

On page 35 between lines 13 and 14, insert:

''(ee) United States Route 220 to United States Route 74 near Rockingham;

''(ff) United States Route 74 to United States Route 76 near Whiteville;

''(gg) United States Route 74/76 to the South Carolina State line in Brunswick County;

''(hh) South Carolina State line to Charleston, South Carolina''.

On page 34, strike lines 8 and 9 and insert:

''(iii) In the states of North Carolina and South Carolina, the corridor shall generally follow—''.

Mr. WARNER. Mr. President, the national highway map will make reference to I–73, and that route will traverse Virginia, North Carolina, and South Carolina. The Senators of these three States have now reached an agreement with respect to the course it will follow in each of the three States. This amendment recites specifically facts relating to the route in North Carolina and South Carolina. I know it has been cleared on the other side. I do not think further debate is necessary. Therefore, I urge its adoption.

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

Without objection, the amendment is agreed to.

So the amendment (No. 1439) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1440

(Purpose: To clarify the treatment of the Centennial Bridge, Rock Island, IL, under title 23, United States Code)

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

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. WARNER. The amendment is on behalf of Mr. SIMON, Ms. MOSELEY-BRAUN, Mr. HARKIN, and Mr. GRASSLEY.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. SIMON, for himself, Ms. MOSELEY-BRAUN, Mr. HARKIN, and Mr. GRASSLEY, proposes an amendment numbered 1440.

Mr. WARNER. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

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

SEC. 1 . TREATMENT OF CENTENNIAL BRIDGE, ROCK ISLAND, ILLINOIS, AGREEMENT.

For purposes of section 129(a)(6) of title 23, United States Code, the agreement concerning the Centennial Bridge, Rock Island, Illinois, entered into under the Act entitled ''An Act authorizing the city of Rock Island, Illinois, or its assigns, to construct, maintain, and operate a toll bridge across the Mississippi River at or near Rock Island, Illinois, and to a place at or near the city of Davenport, Iowa'', approved March 18, 1938 (52 Stat. 110, chapter 48), shall be treated as if the agreement had been entered into under section 129 of title 23, United States Code, as in effect on December 17, 1991, and may be modified in accordance with section 129(a)(6) of the title.

Mr. WARNER. This is to extend the collection of tolls on the Centennial Bridge between Illinois and Iowa in perpetuity as long as excess revenues are used for transportation purposes. Current law would require the toll authority to remove the tolls when the bonds are paid in the year 2007.

Mr. President, I do not see the need for further debate on this amendment, and I urge its adoption.

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

Without objection, the amendment is agreed to.

So the amendment (No. 1440) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1441

(Purpose: To place a moratorium on certain emissions testing requirements, and for other purposes)

Mr. WARNER. Mr. President, I send to the desk an amendment on behalf of Senator GREGG and Senator BOND.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. GREGG, for himself, and Mr. BOND, proposes an amendment numbered 1441.

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

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

The amendment is as follows:

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

SEC. 1 . MORATORIUM ON CERTAIN EMISSIONS TESTING REQUIREMENTS.

(a) MORATORIUM.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency (referred to in this subsection as the ''Administrator'') shall not require adoption or implementation by a State of a test-only or I/M240 enhanced vehicle inspection and maintenance program as a means of compliance with section 182 of the Clean Air Act (42 U.S.C. 7511a), but the Administrator may approve such a program if a State chooses to adopt the program as a means of compliance.

(2) REPEAL.—Paragraph (1) is repealed effective as of the date that is 1 year after the date of enactment of this Act.

(b) PLAN APPROVAL.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency (referred to in this subsection as the ''Administrator'') shall not disapprove a State implementation plan revision under section 182 of the Clean Air Act (42 U.S.C. 7511a) on the basis of a regulation providing for a 50-percent discount for alternative test-and-repair inspection and maintenance programs.

(2) CREDIT.—If a State provides data for a proposed inspection and maintenance system for which credits are appropriate under section 182 of the Clean Air Act (42 U.S.C. 7511a), the Administrator shall allow the full amount of credit for the system that is appropriate without regard to any regulation that implements that section by requiring centralized emissions testing.

(3) DEADLINE.—The Administrator shall complete and present a technical assessment of data for a proposed inspection and maintenance system submitted by a State not later than 45 days after the date of submission.

Mr. WARNER. This is to place a moratorium on certain emissions testing requirements. And it has been cleared by both managers. There is no indication that further debate is needed. I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 1441) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, it is my pleasure to speak on the matter currently before the United States Senate which designates the National Highway System [NHS]. This legislation not only identifies the 159,000-mile NHS, but it provides greater flexibility to the States and attempts to reduce administrative burdens. I believe this is an important step forward in planning for our Nation's infrastructure development and that the Senate should act quickly in passing the National Highway System Act.

The Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA] requires Congress to designate the NHS by September 30, 1995. The House and Senate each passed different NHS bills during the last Congress and, unfortunately, a compromise between the two could not be crafted. Without this measure all NHS and Interstate Maintenance funding, which totals approximately $6.5 billion per year through FY 1997, for the states would cease on that date. Consequently, by acting on this important measure at this early date we are helping to ensure that a bill is passed into law before repercussions are felt by the states.

For Americans across the country, our emerging transportation crisis is made apparent by the increasing number of traffic jams, delays, potholes, and road erosion in rural areas. Oregonians are no less afflicted by these growing problems than those in the rest of the Nation. As frustrating as they are, these problems represent only the tip of the iceberg.

Many do not realize the true importance of our tremendous network of roads and bridges to our economy, national security, and way of life. The health of our citizens, the education of our children, the movement of our perishable food and access to employment all depend upon a reliable and efficient transportation network. The National Highway System is a vital investment in our transportation infrastructure which will allow our society to continue to prosper.

Mr. President, the people of Oregon have long understood the importance of land use planning that incorporates transportation needs. The residents of Portland have frequently made their resounding support for the city's light rail project abundantly clear. As with most Western States, the people of rural Oregon rely constantly on an effective highway system which allows them to access educational, economic, and health care facilities.

Even though my support for this important legislation is extremely clear, there are several specific provisions of this bill which I cannot endorse and I will address these concerns through the amendment process. I continue to believe that in the aggregate this is an excellent piece of legislation and I intend to support its final passage.

I commend Senators CHAFEE, WARNER, BAUCUS and MOYNIHAN for their leadership on this issue. As the chairman of the Senate Appropriations Transportation Subcommittee, I look forward to working with them on this measure in the future.

Mr. SIMPSON. Mr. President, I wish to make a few remarks about the highway bill that we are considering today. The highway bill is so very critical for my State of Wyoming. We need to complete action on this legislation prior to October 1st of this year in order that funds can be released for badly-needed projects in all the States.

In the West our highways have become more and more important as we have observed the effects of airline deregulation and the reduction in rail service in our rural States. Airline deregulation has led to a dramatic decrease in the number of carriers and flights into Wyoming and we have lost Amtrack service. So the Interstate and State Highways System was and is—and always will be our great lifeline.

Because highways are so very important to us the State of Wyoming has proposed to add three significant road segments to the National Highway System in order to link several other primary and secondary highways. The Wyoming delegation has contacted the Federal Highway Administrator regarding this proposal and we trust he will give it every proper consideration.

When people travel in Wyoming—for the most part they drive—and they usually drive for long distances. We have highways that stretch for miles with no habitation at all in between. It is understandable that we are a so put off by a national speed limit. I am so pleased to see that the committee bill repeals the national speed limit. I think that the individual States are quite able to set speed limits that provide for a safe speed given local conditions. The same holds true for seat belt laws and helmet laws. I believe the States are able to determine on their own if they want these laws and how they should be administered without the intrusion of the Federal Government and the threat of Federal sanctions.

I trust we will swiftly pass this legislation and get it onto the President's desk so that we can get about the business of maintaining our present National Highway System and constructing the additional mileage as we require it. Those of us from the Western States of high altitude and low multitude understand the real necessity of passing this important legislation and I would urge my colleagues to support it.

Mr. WARNER. Mr. President, that concludes all matters relating to the pending bill, S. 440.

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators allowed to speak for up to 5 minutes.

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

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF DR. HENRY FOSTER

Mr. DOLE. Mr. President, as in executive session, I ask unanimous consent that at 9 a.m. on Wednesday, June 21, the Senate proceed to executive session to consider the nomination of Henry Foster, to be Surgeon General, and the debate on the nomination be limited to 3 hours equally divided in the usual form, and at 12 noon on Wednesday, June 21, the Senate proceed with a vote

on the motion to invoke cloture on the nomination of Dr. Foster, to be Surgeon General, with the mandatory quorum under rule XXII being waived.

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

Mr. DOLE. If cloture is invoked, the Senate would immediately begin postcloture debate under the provisions of rule XXII.

I also ask, if cloture is not invoked, the Senate return to legislative session, and at 12 noon on Thursday, June 22, the Senate resume executive session to consider the nomination of Dr. Foster, and there be 2 hours of debate equally divided in the usual form, and at 2 p.m. a second vote occur on the motion to invoke cloture on the nomination of Dr. Foster, to be Surgeon General, with the mandatory quorum under rule XXII being waived.

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

Mr. DOLE. Again, if cloture is invoked, the Senate would immediately begin debate postcloture under the provisions of rule XXII.

And finally I ask unanimous consent that if cloture is not invoked on the Foster nomination, the nomination be immediately returned to the calendar and the Senate return to legislative session, all without any intervening action or debate.

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

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. I wonder if I might just indulge the distinguished majority leader on a couple of questions. Assuming that cloture is invoked, obviously there is a 30-hour time agreement. But is it the intention of the majority leader not to limit time on the actual confirmation vote itself?

Mr. DOLE. Beyond the 30 hours?

Mr. DASCHLE. No, something shorter than 30 hours.

Mr. DOLE. My view is there would be 30 hours. I do not think it would take 30 hours, but certainly—as I understand, the most any one Member could accumulate would be 7 hours.

Mr. DASCHLE. Mr. President, let me thank the distinguished majority leader for his cooperation in the effort over the last several days to reach this point. Obviously, we are quite hopeful that we can invoke cloture on the first vote and go to a vote on the confirmation shortly thereafter.

This represents an effort on both sides to allow a vote, at least first on cloture, and second, hopefully, on the motion to confirm Dr. Foster. I know the distinguished majority leader has expressed his interest in working with us to reach this point, and I appreciate the cooperation that he has demonstrated.

We will have 3 hours of debate tomorrow, and then, if we fail to invoke cloture tomorrow, 2 hours of debate on Thursday. Many of us have been seeking an opportunity to have a vote, and we are just hopeful, now that we have reached this agreement, that, indeed, we can find the requisite number of colleagues on both sides of the aisle to ensure that cloture is invoked and that Dr. Foster be allowed a vote on confirmation.

As I understand it, no nomination for the Bush administration was ever defeated on a cloture motion, and I hope the same opportunity could be accorded the nominees of this President.

In accordance with the agreement, I ask unanimous consent to send two cloture motions to the desk, as in executive session.

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

Mr. DASCHLE. I thank again the distinguished majority leader.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion, having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

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

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

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion, having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

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

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

(Later, the following occurred:)

Mr. FORD. Mr. President, I ask unanimous consent that Senator MOSELEY-BRAUN be added to the cloture motion filed with regard to the nomination of Dr. Foster.

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

(Conclusion of earlier proceedings.)

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I thank my colleague, Senator DASCHLE, the Democratic leader. Let me indicate, as I said before, I did meet with Dr. Foster yesterday morning in my Hart office. We had a good discussion. I asked him a series of questions. I indicated to him that there would be possibly two votes, a cloture vote, which he understood would be, in effect to vote on the nomination, and if cloture was invoked, there could be a second vote, which would be a vote on the nomination itself. I tried to lay it out as best I could to Dr. Foster.

In addition, I must say, as is the case sometimes, different plans to proceed sometimes do not please everyone. This is not the process some of my colleagues would prefer. Some would prefer not to bring it up at all; that I, in effect, as the leader had a veto and should not bring this up. I thought about that and indicated at one time that might be the course I would follow, but I also had other options to consider, and this is another option.

If cloture should be invoked, then there will be the debate. I do not think it will consume 30 hours and I guess the vote, if it went that far, would be very, very close, based on my count. Whether or not there will be votes for cloture, I am not certain. I do not think so, but there may be.

We will put all this information in the RECORD tomorrow. There had been a number of nominations for the Bush administration which never got to the floor. They were in the committee and held in the committee and never got to the floor. We can have that debate, too.

The important thing is the Foster nomination was reported out of the Labor Committee in late May, and we had a week's recess. Nobody is suggesting, and I think the record is fairly clear, there has been no undue delay. We are trying to dispose of the nomination one way or the other. I think that is acknowledged, though some might suggest we should not be proceeding in this fashion. But that is a judgment that I made and I hope that we can conclude—in fact, I hope cloture is not invoked and that this nomination then would go back on the calendar after a vote on Thursday.

ACCOLADES TO JOHN KERRY

Mr. MCCAIN. Mr. President, last weekend the U.S. Navy formally retired the last of the Navy's legendary swift boats. Our friend and colleague, Senator JOHN KERRY played a central role in the ceremonies attending the event. As many of our colleagues know, JOHN KERRY was not always the genteel, polished U.S. Senator he is today. He was once the 25-year-old skipper of a swift boat, PC–94, a title as honorable as any he subsequently earned.

JOHN KERRY distinguished himself in service to his country aboard his swift boat, earning the Silver Star, the Bronze Star, and three Purple Hearts. His speech at the retirement ceremony

was a deeply moving tribute to these remarkable vessels and the brave men who sailed them.

I thought our colleagues would enjoy reading that speech, and I ask unanimous consent that a copy of Senator KERRY's remarks be included in the RECORD following my remarks, as well as an account of the retirement ceremony that appeared in the Boston Globe.

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

REMARKS OF SENATOR JOHN F. KERRY

Admiral Boorda, Admiral Zumwalt, Admiral Will, Admiral Moore, Admiral Hoffman, Congressman Kolbe, families and friends, and my fellow Swifties:

We have come here today—with respect and love—to complete the last River Run.

We have brought our memories and those dearest to us in order to put in a place of honored history a remarkable vessel of the United States Navy. In so doing we proudly share with the nation we willingly served, hundreds, even thousands, of examples of daring, courage, commitment, and sacrifice.

We do that with none of the braggadocio or even brash arrogance of our younger days. We do so with the humility that comes from the intervening years and the fact that we survived while our buddies did not; but we do so with unabashed pride in the quality of our service and those we were privileged to fight with—boat for boat, man for man.

We do so knowing that no words here—no hushed conversation with a wife or a son or daughter—no 30-year-later memory or description will ever convey the sight and feeling of 6 or 10 or 12 Swifts, engines throbbing, radios crackling, guns thundering towards the river bank, moving ever closer into harm's way.

But that's not all it was: We sunbathed and skinny-dipped; we traded sea rations for fresh shrimp; and left our Vietnamese recipients of Uncle Sam's technology grinning from ear to ear as they believed they got the better deal; we happily basked in wide beetlenut smiles; we glorified in shouts of ''hey, American, you number one,'' and we casually brushed off taunts of ''Hey, you number ten.''

We replaced Psy Ops tapes with James Brown or Jim Morrison—we used our riot guns to shoot duck and cook up a feast and, yes, some did water ski.

We harassed LSTs and destroyers, lauding it over our less lucky, less plucky, black-shoed Navy brothers. We parlayed our independence and proximity to the war into handouts of steak, fruit, ship board meals and, best of all, ice cream. We became the consummate artists of Comeshaw.

We believed that anyone of us—officer or enlisted—might one day be CNO or CINCPAC, and all the while nothing really mattered that much except trying to win a war and keep each other alive. When we broke the rules—which we never did, of course—we would say, ''what the hell can they do? Send us to Vietnam?!''

Through it all, we never forgot how to laugh—and there were wonderful moments, not just from the gallows humor of the war but those that came from the special spirit of Swifties: the times we lobbed raw eggs from boat to boat; great flare fights that lit more than one life raft on fire; delivering lumber to Nam Can in the middle of the war; handing out ridiculous Psy-Ops packages that no one understood; and of course pet dogs that didn't understand English or Vietnamese for ''don't do it there.'' There were as many moments of humor as Swift boats and sailors.

And we exalted in the beauty of a country that took us from glorious green rice paddy, black water buffalo caressing the banks of rivers, children giggling and playing on dikes, sanpans filled with produce—that suddenly took us from innocence and tranquility deep into the madness of fire fights, chaos reigning around us, 50 calibers diminishing our hearing, screams for medevac piercing the radio waves, fish-tailing rockets passing by the pilot house—all suddenly to be replaced by the most serene, eerie beauty the eye could behold. We lived in the daily contradiction of living and dying.

In a great lesson for the rest of this country in these difficult times, we never looked on each other as officer or enlisted, as Oakie or Down Easterner. We were just plain brothers in combat, proud Americans who together with our proud vessels answered the call.

We were bound together in the great and noble effort of giving ourselves to something bigger than each and every one of us individually, and doing so at risk of life and limb. Let no one ever doubt the quality and nobility of that commitment.

The specs say Swifts have a quarter-inch aluminum hull—but to us it was a hull of steel, though at times that was not enough. It was hospital, restaurant, and home. It was sometimes birthplace and deathbed.

It was where we lived and where we grew up. It was where we confronted and conquered fear and where we found courage. It was our confessional; our place of silent prayer.

We worked these boats hard. No matter the mission, no matter the odds, we pushed them and they took us through violent cross-currents of surf, through 30 ft. monsoon seas, through fishstakes and mangrove, through sandbars and mudflats.

We loved these boats, even if we abused them of necessity, and the truth is—they loved us back. They never let us down.

We made mistakes. Sometimes we bit off more than we could chew. We didn't just push the limits, we exceeded them routinely and still the boats came through. They were our partners on a grand and unpredictable adventure.

Mines exploded underneath us, and—for the most part—the boats pressed on.

The Marines made amphibious landings and took the beachheads—so did we.

The Army conducted sweeps and over-ran ambushes—so did we.

The regular Navy provided shore bombardment and forward fire control—so did we.

The Coast Guard intercepted weapons and gave emergency medical care—so did we.

The nurses and Red Cross saved lives and delivered babies—so did we.

The Seals set ambushes and gathered intelligence—and so did we.

The only thing our boats couldn't do by definition was fly; but some would say that, light of ammo and fuel, and exuberant to have survived a firefight or a monsoon sea—we flew too.

But the power and the strength was not just in the boats. It was in the courage and the camaraderie of those who manned them.

In the darkness and solitude of night, or parked in a cove before a mission, or in the beauty of a crimson dawn before entering the Bay Hap, or the My Tho, or the Bo De, or any other mangrove cluttered river—we shared our fears and, no matter what our differences—we were bound together on an extraordinary journey the memory of which will last forever.

On just routine patrol these boats were our sanctuary—our cloister, a place for crossing divides between Montana, Michigan, Arkansas, and Massachusetts.

The boats occupied us and protected us. They were the place we came together in fellowship, brotherhood, and ultimately love to share our enthusiasm, our idealism—our youth.

Now we are joined together again after more than a quarter century to celebrate this special moment in our lives. It is a bittersweet moment and it is a time to reflect on those events and those friendships that changed our lives and made us who we are today.

Some were not as lucky as we were. They did not have the chance to grow up as we did. They did not get to see their children. They did not have the chance to fulfill their dreams, and we honor their memory today.

In their presence we are gathered with so much more than just mutual respect and admiration, more than just nostalgia.

We loved each other and we loved these boats.

But because of the nature of the war we fought we came back to a country that did not recognize our contribution. It did not understand the war we fought, what we went through, or the love that held us together then. It did not understand what young men could feel for boats like these and men like you.

This is really the first time in 30 years that we've been able to share with each other the feelings that we had then, and the feelings we have now. They are deeply and profoundly personal feelings. They are different for each of us, but the memories are the same—rich with the smells and sounds of the rivers and the power of the boats—punctuated by the faces of the men with whom we served and the thoughts we shared.

But that was 30 years ago, and now it is time to move on.

Joseph Conrad said, ''And now the old ships and their men are gone; the new ships and the new men have taken up their watch on the stern-and-impatient sea which offers no opportunities but to those who know how to grasp them with a ready hand and an undaunted heart.''

So, today, we stand here, still with ready hand—and more than ever undaunted hearts—to complete this last River Run and escort these magnificent boats into history. We who served aboard them are now bound together not just as veterans, not just as friends, but as family.

To all who served on these boats, I salute you. And may God bless you and your families.

[From the Boston Globe, June 14, 1995]

CHURNING THROUGH THEIR PAST—WITH POTOMAC TRIP, KERRY, VIETNAM CREW RELIVE OLD DANGERS

(By Bob Hohler)

WASHINGTON.—The brown river narrowed suddenly, pulling the dense shrubbery along the shores ever tighter yesterday around the last two Navy swift boats.

''Looks awful green over there, skipper!'' Drew Whitlow shouted from a mounted machine gun to Sen. John F. Kerry at the helm of the lead boat, PCF–1.

''Awful green!'' the Massachusetts Democrat yelled back. ''That's an eerie sight.''

When they last saw each other in 1969, Kerry was the commander and Whitlow a gunner on a swift boat whose six-member crew patrolled the Mekong Delta in Vietnam, where ambush-mined insurgents seemed to lurk in every patch of green.

Because some memories never die, it mattered little that Kerry, Whitlow and a dozen other highly decorated veterans of the 65-foot-long swift boats churned through the Potomac River rather than the once-treacherous Bay Hap or Doug Cung rivers in Vietnam.

The veterans were making the swift boats' last run, a 90-mile journey up the Potomac from the Naval Surface Warfare Center in Dahlgren, Va., to the Washington Navy Yard, where the boats are to be formally retired, closing a chapter in US naval history.

And green still spelled danger. ''We were surrounded most of the time on the rivers by great, green beauty,'' Kerry recalled over the roar of engines and crushing waves. ''There were lush greens and sampans and junks and water buffalos and beautiful Vietnamese children.''

Then the green turned to fire and smoke, and ''there were moments of utter terror where all hell broke loose,'' and Kerry, who earned the Silver Star, Bronze Star and three Purple Hearts as a 25-year-old commander of a swift boat, PCF–44.

The swift boats, modeled after the all-metal crafts used to ferry crews to offshore drilling rigs in the Gulf of Mexico, were dispatched to Vietnam because they were best suited to navigate the region's shallow and narrow waterways, the control of which US commanders considered vital.

But the boats became prime targets for the Viet Cong, who destroyed three of the 125 craft the Navy commissioned. Three others were lost in heavy weather off the coast of Vietnam. And one, PCF–14, sank after accidentally being attacked by the US Air Force.

For Kerry, action never seemed far away. ''He was the type who if no other crew would take the job, he would take it,'' said Whitlow, a former gunner from Huntsville, Ark., who made his career in the Navy.

But his crew trusted him, said Tom Belodeau, an electrician from Lowell, who manned an M–60 machine gun on the bow of Kerry's boat. ''He understood that his crew and his boat could get along without him, but that he couldn't get along without them,'' said Belodeau. ''We all respected each other.''

Kerry, clad yesterday in a brown leather jacket adorned with a ''Tonkin Gulf Yacht Club'' patch, reminisced with Whitlow and Belodeau on their four-hour journey up the Potomac, a reunion they said they never expected to occur.

Kerry joked about the time a Vietnamese woman nearly gave birth in Whitlow's arms as their boat sped to a medical unit. And he reminded Belodeau of the day a water mine exploded under the boat, catapulting their dog, VC, from the deck of their boat onto a nearby swift boat.

Kerry cited luck yesterday for much of his success in Vietnam. As he steered the swift boat toward the Washington Navy Yard and a clutch of dignitaries, he noted how well-preserved the craft was in contrast to his former boat.

''By the time I left'' Vietnam, Kerry said, ''there were 180 holes in my boat.''

''To be honest,'' Belodeau said, ''it looked like Swiss cheese.''

Mr. MCCAIN. In closing, Mr. President, had Senator KERRY's modesty allowed me to, I would have liked to also include in the RECORD his citations for conspicuous bravery and heroic achievement, virtues which Senator KERRY repeatedly demonstrated in service to his country's cause, in the company of heroes, aboard as durable and dependable a vessel as ever flew the colors of the United States.

Mr. WARNER. Mr. President, I would like to associate myself with the remarks of the distinguished Senator from Arizona as it relates to our distinguished colleague from Massachusetts. I happened to have been in the Department of Navy during that period and am well aware of his distinguished record.

WEST VIRGINIA BIRTHDAY

Mr. ROCKEFELLER. Mr. President, I am pleased and honored to wish the great State of West Virginia, and my fellow Mountaineers, a happy birthday. On this 20th of June we celebrate not only the courage our ancestors possessed in order to separate from Virginia, a powerful mother State, but also the heritage and sense of independence they left behind.

The State of West Virginia has always represented a place of great uniqueness. Our colors are blue and gold. Blue characterizes our bold ability to stand up for the freedom and the equal opportunities that we all deserve. Gold is the dignity of Mountaineers that shines throughout the world. The pride that the people of West Virginia have in their surrounding environment is one that can be found no where else. West Virginia's mountainous terrain offers attractions annually. The white water rafting and golf courses are considered among the finest anywhere. Plus, the 33 State parks include abundant wildlife. Tourists have rave remarks about our historic Blennerhassett Island, Harpers Ferry, and the Greenbrier Hotel.

Loyalty is a splendid quality of all the people in this magnificent State. Mountaineers have always supported the education and athletics of their colleges and universities. Through continuous hard work the men and women of West Virginia have attracted numerous industries to the area. Their strong work ethic has helped West Virginia's manufacturing sector to prosper. However, the pride and loyalty of our people extends out from our own boundaries. The people of West Virginia know the importance of freedom; therefore, many have dedicated their lives to serving our Nation.

Mr. President, the people of West Virginia share a special bond. Therefore, on this day let us all join together in recognizing and celebrating a very special birthday. Happy Birthday West Virginia.

IS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES.

Mr. HELMS. Mr. President, the impression simply will not go away: The $4.8 trillion Federal debt is a grotesque parallel to the energizer bunny we see, and see, and see on television. The Federal debt keeps going and going and going—up, of course, and always to the added misery of the American taxpayers.

So many politicians talk a good game—when, that is, they go home to talk—and ''talk'' is the operative word—about bringing Federal deficits and the Federal debt under control.

But, sad to say, so many of these very same politicians have regularly voted for one bloated spending bill after another during the 103d Congress and before. Come to think about it, this may have been a primary factor in the new configuration of U.S. Senators as a result of last November's elections.

In any event, Mr. President, as of yesterday, Monday, June 19, at the close of business, the total Federal debt stood—down to the penny—at exactly $4,892,922,141,296.33 or $18,573.62 per man, woman, child on a per capita basis. Res ipsa loquitus.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

CREDIBILITY GAP IN THE PRESIDENT'S BUDGET

Mr. GRASSLEY. Mr. President, last week, the President announced he would join Republicans in seeking to balance the budget. I, along with many of my Republican colleagues, welcomed the President's decision. We particularly welcomed the President's recognition that the growth of Medicare must be slowed down if we are going to keep that important program solvent.

Unfortunately, though, when you look at the President's entire budget—and it was looked at by the Congressional Budget Office, and this is a nonpartisan scorekeeper—after reviewing the President's new proposal, it found that it would not balance the budget. In fact, the Congressional Budget Office estimates that President Clinton's new budget proposals would maintain deficits of approximately $200 billion per year.

The deficit then under CBO's projections for the year 2005, which is at the end of the 10-year period of time the President wants to balance the budget, would still be $209 billion deficits. And, of course, that is the year in which the President claimed his proposal would achieve balance.

The administration is trying in vain to paper over these huge deficits. The President claims that the failure of his new budget to achieve balance is due, in his words, to just some slight differences in estimating between the CBO and the administration's Office of Budget. Of course, we all know that this claim is disingenuous.

My colleagues need no further reminder than the President committing himself to using CBO estimates earlier in his administration to ensure that his proposal would be credible, and I would like to quote from the February 17, 1993, speech of the President. This was in a speech before Congress:

> Let's at least argue about the same set of numbers so the American people will think that we're shooting straight with them.

The President could not have said it any better. So the President stated this in advocating the use of Congressional Budget Office estimates instead of any other estimates, including his own Office of Budget.

Now, of course, the President has decided to back away from the pledge of

using the nonpartisan CBO to provide estimates. He wants instead to use the White House's own numbers. Could it be because those numbers are more politically convenient? Of course, the answer is yes.

The President is using OMB estimates because he does not want to make the tough decisions and the tough tradeoffs. In addition, the President's proposal provides no detail and no policy assumptions—there is then no there, there. In sum, instead of lowering the deficit, the administration lowers the deficit estimate.

As former CBO Director Dr. Reischauer said the other day, and this is a direct quote: ''He''—meaning the President—''lowered the bar and then gracefully jumped over it.''

To the point, the President uses rosy scenarios. By embracing Ms. Rosy Scenario, the President undermines both his leadership and his credibility. I do not feel that I am carping on this issue, Mr. President, because I have walked the walk. I have broken ranks with Republican administrations in both the Reagan and Bush years because they proposed rosy scenarios and magic asterisks to seemingly lower the deficit. Rosy scenarios were wrong then and they are wrong now.

The President's intentions in joining the quest for a balanced budget are known, but his credibility is damaged by his new budget hocus-pocus. He has not enhanced his relevance in the process merely by offering what he says is a balanced budget. What he proposed must actually be a balanced budget to have credibility. Only at that point then will the President's efforts to balance the budget be real and will his part be relevant.

Again, I do not dismiss out of hand the President's efforts. His new budget at least indicates the President's good-faith intentions. In that regard, it is a good first step and a recognition that we must balance the budget. But if the administration wants to remain relevant, it must revisit its budget proposal and take the next very important step and make the additional cuts necessary to achieve balance, even by the year 2005, at the end of his 10 years, compared to the Republicans' 7 years.

In short, I propose the administration go back to the drawing board. Such actions would make the administration's budget truly credible with the American people to whom he promised a balanced budget proposal. The President must amend his proposal if he wants to fulfill his role as a leader on fiscal matters.

Mr. President, in closing, I would like to highlight just one part of the administration's budget which I believe the President needs to seriously reconsider, and that is the funding for defense. I was astounded to find that the President's proposal for outlays for defense is higher than that agreed to in the Senate budget resolution drafted by Senator DOMENICI.

The administration proposes to spend approximately $20 billion more on defense than contained in the Senate's budget resolution for fiscal year 1996 through the year 2002. And that resolution contained the original Clinton defense numbers. Incredibly, the administration's proposed defense spending is even higher than that contained in the House budget resolution. In the year 2002, the administration proposes to spend—can you believe this?—$2 billion more on defense than that very high figure proposed in the House budget resolution.

Now, I am at a loss to understand why the President believes it is necessary to increase defense spending by billions. What can the justification possibly be? The Soviet military threat has evaporated. DOD managers cannot even account for the taxpayers' money they already have and have already spent. Any extra money would largely go toward buying hidden costs—in other words, paying for cost overruns, not for more weapons or equipment.

At the same time, the President proposes to give more money to the generals, he is asking working families, family farms, and the elderly to tighten their belts.

I was also astonished that in the outyears—years 9 and 10 of his budget—the administration continues to ratchet up defense spending. That is so far down the road that it is not even a credible proposal. So what is the rationale?

Finally, revisiting the President's proposal to increase defense spending would be a good place to start—I think it is a good place to start—as the administration looks for additional cuts in spending for its new budget proposal—cuts that must be provided if the administration is to maintain credibility as we work to achieve a balanced budget.

We Republicans thank him for his proposed balanced budget, but we want him to use real numbers. We want it to be balanced in the year 2005, and we do not want to have a $9 billion deficit that is presently under the nonpartisan Congressional Budget Office's calculations, as they have reviewed and critiqued his proposal.

I yield the floor.

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

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

The bill clerk proceeded to call the roll.

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

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

REPORT OF THE AGREEMENT BETWEEN THE UNITED STATES AND THE GOVERNMENT OF LATVIA CONCERNING FISHERIES—MESSAGE FROM THE PRESIDENT—PM 56

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 jointly to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations, pursuant to Public Law 94–265:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 *et seq.*), I transmit herewith an Agreement Between the Government of the United States of America and the Government of the Republic of Latvia Extending the Agreement of April 8, 1993, Concerning Fisheries Off the Coasts of the United States. The Agreement, which was effected by an exchange of notes at Riga on March 28, 1995, and April 4, 1995, extends the 1993 Agreement to December 31, 1997.

In light of the importance of our fisheries relationship with the Republic of Latvia, I urge that the Congress give favorable consideration to this Agreement at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 20, 1995.*

MESSAGES FROM THE HOUSE

At 11:50 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1070. An act to designate the reservoir created by Trinity Dam in the Central Valley project, California, as ''Trinity Lake''.

At 2:16 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1530. An act to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1996, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times, by unanimous consent and referred as indicated:

H.R. 1070. An act to designate the reservoir created by Trinity Dam in the Central Valley project, California, as ''Trinity Lake''; to the Committee on Energy and Natural Resources; and

H.R. 1530. An act to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1996, and for other purposes; to the Committee on Armed Services.

MEASURES PLACED ON THE CALENDAR

The following resolution was read and placed on the calendar:

S. Res. 97. Resolution expressing the sense of the Senate with respect to peace and stability in the South China Sea.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1032. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, a report relative to a grant transfer to the Government of Mexcio; to the Committee on Armed Services.

EC–1033. A communication from the Chief of Legislative Affairs, transmitting, pursuant to law, a report relative to a grant transfer to the Government of Tunisia; to the Committee on Armed Services.

EC–1035. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report relative to base closures; to the Committee on Armed Services.

EC–1036. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to repeal a provision of the National Defense Authorization Act for Fiscal Year 1994 that prohibits the United States Government from acquiring or modifying diplomatic or consular facilities in Germany unless done with residual value funds provided by Germany and only after Germany has committed to repay at least 50 percent of the residual value of United States installations returned to Germany; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations, with amendments and an amended preamble:

S. Res. 97. A resolution expressing the sense of the Senate with respect to peace and stability in the South China Sea.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations:

Larry C. Napper, of Texas, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Lativa.

Nominee: Larry C. Napper.

Post: U.S. Ambassador to Latvia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and doneee.

1. Self, none.

2. Spouse, Mary Linton Bowers Napper, none.

3. Children and spouses names, John David Napper, none; Robert Eugene Napper, none.

4. Parents names, Paul Eugene Napper, none; Annie Ruth Napper, none.

Grandparents names, Irving P. and Martha Cooner, both deceased; Charles and Nellie Kindell, both deceased.

6. Brothers and spouses names, Gary E. Napper and spouse Terri, none; Billy Joe Napper, none.

7. Sisters and spouses names, none.

R. Grant Smith, of New Jersey, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tajikistan.

Nominee: R. Grant Smith.

Post: Ambassador to Tajikistan.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, donee.

1. Self, none.

2. Spouse, Renny T. Smith, none.

3. Children and spouses names, R. Justin Smith, none; Christina Adair Smith, none.

4. Parents names, Jane B. Smith, none; R. Burr Smith, deceased.

5. Grandparents names, Mr. and Mrs. Rufus D. Smith, deceased; Mr. and Mrs. C. Bergen, deceased.

6. Brothers and spouses names, Roy and Carolyn Steinhoff-Smith, $20, 1994, Mike Synar; Douglas and Betty Lou Smith, none.

7. Sisters and spouses names, none.

Donald K. Steinberg, of California, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Angola.

Nominee: Donald Kenneth Steinberg.

Post: Luanda, Angola.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, donee.

1. Self, none.

2. Spouse, N/A.

3. Children and spouses names, N/A.

4. Parents names, Warren Linnington Steinberg, 1991—Democratic Senatorial Campaign Committee, $30; Leo McCarthy for Senate (CA), $25; National Committee for an Effective Congress, $25; Democratic National Committee, $20.

1992—National Committee for an Effective Congress, $115; Clinton for President, $100; Feinstein for Senate, $100; Democratic National Committee, $65; Slavkin Campaign Committee, $20; Democratic Senatorial Campaign Committee, $10; Democratic Congressional Campaign Committee, $10; Senator John Kerry, $10; Senator John Glenn, $10; Senator Daniel Patrick Moynihan, $10; Barbara Boxer for Senate, $10.

1993—Democratic Congressional Campaign Committee, $60; National Committee for an Effective Congress, $40; Democratic Senatorial Campaign Committee, $35; Feinstein for Senate, $25; Senator Frank Lautenberg, $15; Senator Edward Kennedy, $15; Senator Harris Wofford, $15; Democratic National Committee, $15; Emily's List, $10; Senator Joseph Lieberman, $10.

1994—Democratic Congressional Campaign Committee, $30; National Committee for an Effective Congress, $50; Democratic Senatorial Campaign Committee, $70; Feinstein for Senate, $25; Senator Frank Lautenberg, $15; Senator Edward Kennedy, $25; Democratic National Committee, $35; Emily's List, $35; Representative Sandy Levin, $15; Democrats 2000, $15. Beatrice Blass Steinberg, none.

5. Grandparents names, not living.

6. Brothers and spouses names, Leigh William Steinberg, 1992—Mel Levine, $2,000; Barbara Boxer, $4,000; Diane Feinstein, $7,000.

1993—Emily's List, $100.

1994—Hollywood Committee for Pol Action, $2,000. James Robert Steinberg, none.

7. Sisters and spouses names, N/A.

Lawrence Palmer Taylor, of Pennsylvania, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Estonia.

Nominee: Lawrence Palmer Taylor.

Post: Estonia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete nad accurate.)

Contributions, amount, date, donee.

1. Self, Lawrence P. Taylor, none.

2. Spouse, Lynda E. Taylor, none.

3. Children and spouses names, Lori Taylor, Tracey Taylor, Scott Taylor, none.

4. Parents names, Sheldon and Juanita Taylor, none.

5. Grandparents names, deceased.

6. Brothers and spouses names, Kenneth and Rosemary Taylor, none.

7. Sisters and spouses names, Margaret Taylor Wise (divorced), none.

Peter Tomsen, of California, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Armenia.

Nominee: Peter Tomsen.

Post: Republic of Armenia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, Peter Tomsen, none.

2. Spouse, Kim N. Tomsen, none.

3. Children, Kim-Anh Tomsen, none; Mai-Lan Tomsen, none.

4. Parents, Justus Tomsen, deceased; Margaret Y. Tomsen $85 (total) 1989 and 1991, Republican Party; $15 in 1992, Republican Party.

5. Grandparents, deceased.

6. Brothers and spouses, James and Anne Tomsen, none; Timothy and Linda Tomsen, none.

7. Sister, Margot Lynn Tomsen, none.

Michael Tomsen: Michael has estranged himself from the family for 15 years. He is dependent on Federal Government checks. We do not know his address. Because of his dependent state, it is my assumption that he has not contributed—and does not have the capacity to contribute—to political campaigns.

Jenonne R. Walker, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czech Republic.

Nominee: Jenonne Roberta Walker.

Post: Ambassador to the Czech Republic.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, Jenonne Walker, none.

2. Parents, Walter and Eloise Walker, none.

3. Grandparents, John and Minnie Walker, none; James and Bennie Atwell, none.

4. Brother Howard Wayne Walker, none.

Mosina H. Jordan, of New York, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Central African Republic.

Nominee: Mosina H. Jordan.

Post: Central African Republic.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self. none.
2. Spouse, none.
3. Children, George Michael Jordan, none; Mosina Michele Jordan, none; Frank Jordan, none.
4. Parents, Alice Mann, none; Frank Monterio, deceased.
5. Grandparents, maternal and paternal, deceased; Ellen and Joseph Jones, unknown.
6. Brothers, George Hitt, $30; Johnny Hitt, none.

Lannon Walker, of Maryland, a career member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cote d'Ivoire.

Nominee: Lannon Walker.

Post: Cote d'Ivoire.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses, Rachelle and Tom Crowley, none; Anne, none.
4. Parents, deceased on both sides, none.
5. Grandparents, deceased on both sides, none.
6. Brothers, no siblings.
7. Sisters, no siblings.

Timothy Michael Carney, of Washington, a career member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sudan.

Nominee: Timothy Michael Carney.

Post: Ambassador to the Republic of the Sudan.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, none.
2. Spouse, Victoria A. Butler, none.
3. Children, Anne H.D. Carney, unmarried, none.
4. Parents, Clement E. Carney, deceased; Marjorie S. Carney, stepmother, declines to specify. (Mrs. M. Carney said that she gave less than $1,000 and contributed only to local level, rather than national level candidates); Kenneth Booth, stepfather, and Jane Booth, mother, none.
5. Grandparents, Mr. and Mrs. P. Carney, deceased; Mr. and Mrs. J. Byrne, deceased.
6. Brother and spouse, Brian B. Carney, and Jane V. Carney, none.
7. Sister, Sharon J. Carney, divorced, none.

James Alan Williams, of Virginia, a career member of the Senior Foreign Service, class of Minister-Counselor, for the rank of Ambassador during his tenure of service as the Special Coordinator for Cyprus.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HELMS. Mr. President, for the Committee on Foreign Relations, I also report favorably two nomination lists in the Foreign Service which were printed in full in the RECORDS of March 23, 1995 and May 15, 1995, 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 March 23, and May 15, 1995 at the end of the Senate proceedings.)

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. SIMON (for himself, Ms. MOSELEY-BRAUN, and Mr. COATS):

S. 944. A bill to provide for the establishment of the Ohio River Corridor Study Commission, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. 945. A bill to amend the Illinois and Michigan Canal Heritage Corridor Act of 1984 to modify the boundaries of the corridor, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. COHEN (for himself and Mr. LEVIN):

S. 946. A bill to facilitate, encourage, and provide for efficient and effective acquisition and use of modern information technology by executive agencies; to establish the position of Chief Information Officer of the United States in the Office of Management and Budget; to increase the responsibility and public accountability of the heads of the departments and agencies of the Federal Government for achieving substantial improvements in the delivery of services to the public and in other program activities through the use of modern information technology in support of agency missions; and for other purposes; to the Committee on Governmental Affairs.

By Mr. PRESSLER (for himself and Mr. DASCHLE):

S. 947. A bill to amend title VIII of the Elementary and Secondary Education Act of 1965 regarding impact aid payments, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DORGAN (for himself, Mr. HELMS, Mr. INOUYE, Mr. LEAHY, Mr. MURKOWSKI, and Mr. ROBB):

S. 948. A bill to encourage organ donation through the inclusion of an organ donation card with individual income refund payments, and for other purposes; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. ROBB, Mr. WARNER, Mr. HEFLIN, Mrs. KASSEBAUM, Mr. INOUYE, and Mr. SHELBY):

S. 949. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. BOXER (for herself, Mr. KENNEDY, Mr. KERRY, Mr. SARBANES, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. AKAKA, Mr. INOUYE, Mrs. MURRAY, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. ROBB, Mr. GRAHAM, and Mr. LAUTENBERG):

S. 950. A bill to amend the Outer Continental Shelf Lands Act to direct the Secretary of the Interior to cease mineral leasing activity on submerged land of the outer Continental Shelf that is adjacent to a coastal State that has declared a moratorium on mineral exploration, development, or production activity in adjacent State waters, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 137. A resolution to provide for the deposit of funds for the Senate page residence; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMON (for himself, Ms. MOSELEY-BRAUN, and Mr. COATS):

S. 944. A bill to provide for the establishment of the Ohio River Corridor Study Commission, and for other purposes; to the Committee on Energy and Natural Resources.

OHIO RIVER CORRIDOR STUDY COMMISSION ESTABLISHMENT ACT

Mr. SIMON. Mr. President, today I am introducing a bill to provide for the establishment of the Ohio River Corridor Study Commission. The purpose of this legislation is to focus attention on the distinctive and nationally important resources of the Ohio River corridor. My intention is to provide for long-term preservation, betterment, enjoyment, and utilization of the opportunities in the Ohio River corridor.

The Ohio River is a unique riverine system and is recognized as one of the great rivers of the world. In our Nation's early years, the Ohio was the way west; later the transportation opportunities provided by the river brought resources and people together to help build our country into a great industrial power.

The Ohio River starts in Pittsburgh, PA, and flows to the west and to the south toward its confluence in my home State of Illinois at the Mississippi River at Cairo, IL. The Ohio River covers 981 miles and flows through or borders on the States of Pennsylvania, Ohio, West Virginia, Kentucky, Indiana, and Illinois.

Our great American rivers even after years of neglect and abuse, remain

among the most scenic areas of the country. After a preliminary investigation, the ad hoc Ohio River Group believes that an indepth study of the waterway would result in a favorable recommendation for a joint local, State, and national endeavor resulting in the designation of the river valley as a national heritage corridor.

Mr. President, as with other national heritage corridors there is a high degree of coordination and cooperation required by the various governmental entities along the river if the project is to be successful. I believe that establishing the Ohio River Corridor Study Commission—whose membership would include the Director, or designee, of the National Park Service—would be the most appropriate mechanism to begin implementation of the conceptual study.

By Mr. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. 945. A bill to amend the Illinois and Michigan Canal Heritage Corridor Act of 1984 to modify the boundaries of the corridor, and for other purposes; to the Committee on Energy and Natural Resources.

ILLINOIS AND MICHIGAN CANAL HERITAGE CORRIDOR ESTABLISHMENT ACT

Mr. SIMON. Mr. President, today I am introducing a bill to provide for the Illinois & Michigan Canal Heritage Corridor. The purpose of this legislation is to preserve and enhance a corridor known for its nationally significant cultural and natural resources. My intention is to provide for long-term preservation, betterment, and utilization of the opportunities in the Illinois & Michigan Canal.

The Illinois & Michigan Canal National Heritage Corridor extends itself over 120 miles from Chicago to LaSalle/Peru. The Illinois & Michigan Canal was the first to be designated as a National Heritage Corridor in 1984. For years Illinoisans have been able to appreciate not only the natural beauty of the canal but also its historical interest. On both banks of the river, forests, prairies, and bird sanctuaries have been preserved. The unique architecture of this area includes buildings constructed between 1836 and 1848, architecture which no longer existed farther east, destroyed by the Chicago Fire of 1871.

The Illinois & Michigan Corridor is an innovative concept. It is the first partnership park of its kind and it is now a model for such parks throughout the Nation.

Mr. President, as with other national heritage corridors there is a high degree of coordination and cooperation required by the various governmental entities along the canal if the project is to be successful. The high historical, recreational, educational value of the canal is evident. It is my duty to seek to help preserving and protecting one of our national treasuries. I believe that extending the Illinois and Michigan Canal National Heritage Corridor Commission would be the most appropriate way to reach those goals.

By Mr. COHEN (for himself and Mr. LEVIN):

S. 946. A bill to facilitate, encourage, and provide for efficient and effective acquisition and use of modern information technology by executive agencies; to establish the position of Chief Information Officer of the United States in the Office of Management and Budget; to increase the responsibility and public accountability of the heads of the departments and agencies of the Federal Government for achieving substantial improvements in the delivery of services to the public and in other program activities through the use of modern information technology in support of agency missions; and for other purposes; to the Committee on Governmental Affairs.

FEDERAL INFORMATION TECHNOLOGY REFORM ACT OF 1995

Mr. COHEN. Mr. President, today I rise to introduce the Federal Information Technology Reform Act of 1995. This legislation will provide much needed reform to the way the government acquires and uses computers and information technology. This legislation is critical to the future of Government as information technology becomes increasingly important in the way we manage Federal programs and responsibilities.

It was not all that long ago—less than two decades—when the business tools in most offices consisted of rotary dial telephones, IBM Selectric typewriters, sheets of carbon paper, and gallons of white-out. Today, however, it is a much different world. Offices now rely on digital telephone systems, voice and electronic mail, personal computers, and copy and fax machines. And while the office tools in Government and the private sector are similar, the Government is finding itself falling further and further behind the technology curve The disparity between the tools of the private sector and the tools of Government is growing daily; especially in the area of information management.

The Government is the largest information manager in the world. The IRS collects more than 200 million tax forms a year. The Department of Defense has warehouses of information containing everything from declassified battle plans from the Spanish American War to financial records for the Aegis Destroyer.

The Department of Veterans Affairs has medical, educational, and insurance records for tens of millions of veterans scattered throughout the country. The Social Security Administration has hundreds of millions of records dealing with disability claims, educational benefits and payment records. In addition, all of these agencies have records dealing with personnel, travel and supply expenses. The list is endless.

The ability of Government to manage this information has a profound affect on the daily lives of all of us. When senior citizens receive their Social Security checks, it is because a Government computer told the Treasury Department to send a check.

When we pay taxes or receive a refund, it is a Government computer that examines our tax forms, checks our math, and determines if we have paid the right amount or if we are due a refund.

When we fly, we rely on Government computers to keep planes from crashing into one another. When we watch weather reports on the evening news, the information comes from Government computers.

Government computers also keep track of patents, Government-insured loans, contractor payments, personnel and payroll records, criminal records, military inventory, and Medicaid and Medicare billings. In short, the Government keeps track of information that ensures our financial well being and is also critical to our public safety and national security needs.

But these Government information systems are headed for catastrophic failure if we fail to address the challenge of modernization. The Federal Aviation Administration, for example, relies on 1950's vacuum tube technology to monitor the safety of millions of airline passengers on a daily basis. Occasionally this antiquated technology fails, potentially putting airline passengers at risk.

Other Government computers are also failing to do the job such as failing to detect fraud in the Federal student loan program and preventing excess inventories at the Department of Defense. Inadequate technology is also largely to blame for the Justice Department's failure to collect millions in civil penalties, the Internal Revenue Service's failure to collect billions in overdue taxes, and the Department of Health and Human Service's failure to detect fraud in the Medicare program.

The underlying theme in all of the examples is that the Government does not do a good job managing its information. Poor information management is, in fact, one of the biggest threats to the Government Treasury because it leaves Government programs susceptible to waste, fraud, and abuse.

When the average taxpayer hears horror stories such as the Federal payroll clerk who was paying phantom employees and pocketing the money, or the case of the finance clerk who billed the Navy for ship parts that were never delivered, or the tax preparer who stole millions from the IRS through fictitious filings, they may not think about information management. But they certainly lose confidence in the Government's ability to manage.

My purpose in relating these incidents is not to simply recite a litany of Government horror stories. We have all heard too many of those. Instead, my purpose is to highlight how Government technology affects the lives of ordinary citizens, and to demonstrate

that the common denominator in these examples is the Government's failure to effectively manage information.

The problems are clear. It is equally clear that focusing on reforming how the Government approaches and acquires information technology can have a profound impact on the way Government does business in much the same way it has changed corporate America.

Last fall, I issued a report examining the Government's purchase and use of information technology. While I do not want to rehash all of the findings and recommendations, I do think some key observations are worth repeating.

Government is falling further behind the private sector in its ability to successfully apply information technology. First, the Federal Government rarely if ever examines how it does business before it automates. I recently held hearings which examined how the Pentagon could save more than $4 billion over 5 years simply by changing the way it processed travel vouchers. Automating the current voucher processing system will neither achieve the projected savings nor the efficiencies that are accomplished through reengineering.

Second, the Federal Government has wasted billions of dollars by maintaining and updating so-called legacy or antiquated computers from the 1960's and 1970's which are ill-suited for the Government's needs and by today's standards will never be efficient or reliable.

Third, the Government wastes additional billions when we do buy replacement systems because we try to do too much at one time. These so-called megasystems are difficult to manage and are rarely successful. Without exception, megasystems cost much more than envisioned and when completed, which is rare, are generally years behind schedule. The private sector recognizes the megasystem approach as too risky and instead takes an incremental and more manageable approach. We need only look to the IRS and FAA to see examples of old systems that continue to deteriorate but have yet to be replaced because of failed modernization efforts.

Fourth, the process for buying Federal computer systems takes too long, largely because the process is inflexible and bureaucratic. In most cases, technology is obsolete by the time the new system is delivered. In a world where technology doubles every 18 months, Government can no longer afford systems that take 3 and 4 years to procure. In addition, once systems are finally delivered, agencies are then at the mercy of winning vendors for needed upgrades. These upgrades are purchased noncompetitively and any savings derived from the earlier competition are lost.

Finally, protests and the threat of protests add further delay and cost. In some cases, protests are lodged to obtain information that was not disclosed at debriefings, to interrupt revenue flow to competitors, or to gain other competitive advantages.

The current approach to buying computers is outdated and takes little account of the competitive and fast-changing nature of the global computer industry. Markets and prices change daily, yet Government often gets locked into paying today's prices for yesterday's technology.

It is time to move Government information technology into the 21st century. That is why today I am introducing the Information Technology Management Reform Act of 1995. This legislation will significantly alter how the Government approaches and acquires information technology. The legislation would repeal the Brooks Act and establish a framework that will respond more efficiently to the needs of Government now and in the foreseeable future.

Mr. President, this legislation will make it easier for the Government to buy technology. More importantly, it is intended to make sure that before investing a dime in information technology, Government agencies will have carefully planned and justified their expenditures. Federal spending on information technology will be treated like an investment. Similar to managing an investment portfolio, decisions on whether to invest will be made based on potential return, and decisions to terminate or make additional investments will be based on performance. Much like a broker, agency management and vendor performance will be measured and rewarded based on managing risk and achieving results.

One of the most important features of the bill is that it changes the way Government approaches technology. Agencies will be encouraged—indeed required—to take a hard look at how they do business before they can spend a dollar on information technology. The idea is to ensure that we are not automating for the sake of automation. The greatest benefit from an investment in information technology can come from automating efficient processes.

The bill will make it easier to invest in information technology by replacing the current procurement system with one that is less bureaucratic and process driven. The new system is designed to allow Government to buy technology faster and for less money. This will enable us to make significant progress in replacing the inefficient and unreliable legacy systems which currently waste a significant portion of the Federal Government's $27 billion annual information technology budget.

Specifically, the bill eliminates the delegation of procurement authority at the GSA, and establishes a National Chief Information Officer at OMB and Chief Information Officers at the major Federal agencies whose jobs are to emphasize up front planning, monitor risk management, and work with vendors to achieve workable solutions to the Federal Government's information needs.

The legislation will also fundamentally change the Government's focus of information technology from a technical issue to a management issue. We have seen how failing to recognize information technology as a management issue has resulted in billions of dollars lost to inefficiency and abuse. From now on, Government information technology will have the attention of top management because the CIO's will have seats at the top levels of Government.

My legislation will also discourage the so-called megasystem buys. Following the private sector model, agencies will be encouraged to take an incremental approach that is more manageable and less risky.

We can no longer afford Government-unique systems. My bill makes it easy for agencies to buy commercially available products. While I understand that there are some unique needs, standard commercially available systems should be utilized for payroll and travel operations that are similar in both business and Government and for other operations whenever practicable.

The bill eliminates the current system for resolving bid protests involving information technology. Consequently, all protests will be resolved by the agencies, General Accounting Office, or the courts. While some are concerned that without the current system fairness cannot be ensured, I believe that other improvements in the procurement process required by the legislation eliminate the need for this redundancy.

I am excited about the prospect of this legislation to transform the way the Government does business. If Government is going to regain the confidence of taxpayers, it must successfully modernize. And, as you know, we cannot successfully modernize unless we can buy the tools which will enable us to automate. My legislation will lay the foundation to fundamentally change how the Government approaches the application and purchases of information technology.

If passed and implemented properly, this legislation can save taxpayers hundreds of billions of dollars by reducing overhead expenses and enabling our Government to become significantly more efficient. Changing the way Government does business and realizing the full promise and potential of technology, we can reduce the financial burden for this and future generations of Americans.

Mr. President, I urge my colleagues to support this legislation and move swiftly toward its adoption. We simply cannot afford to miss this opportunity to improve the delivery of services to the public; to increase detection of waste and fraud; and significantly reduce the cost of Government.

I ask unanimous consent to have the full text of my statement and Senator LEVIN's statement printed in the

RECORD as if read, and that the bill and section-by-section analysis be included in the RECORD.

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

S. 946

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Information Technology Management Reform Act of 1995''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.

TITLE I—RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

Subtitle A—General Authority

Sec. 101. Authority of heads of executive agencies.
Sec. 102. Superior authority of Director of Office of Management and Budget.
Sec. 103. Repeal of central authority of the Administrator of General Services.

Subtitle B—Director of the Office of Management and Budget

Sec. 121. Responsibility of Director.
Sec. 122. Specific responsibilities.
Sec. 123. Performance-based and results-based management.
Sec. 124. Standards and guidelines for Federal information systems.
Sec. 125. Contracting for performance of information resources management functions.
Sec. 126. Regulations.

Subtitle C—Chief Information Officer of the United States

Sec. 131. Office of the Chief Information Officer of the United States.
Sec. 132. Relationship of Chief Information Officer to Director of the Office of Management and Budget; principal duties.
Sec. 133. Additional duties.
Sec. 134. Acquisitions under high-risk information technology programs.
Sec. 135. Electronic data base on contractor performance.

Subtitle D—Executive Agencies

Sec. 141. Responsibilities.
Sec. 142. Specific authority.
Sec. 143. Agency chief information officer.
Sec. 144. Accountability.
Sec. 145. Agency missions and the appropriateness of information technology initiatives.
Sec. 146. Significant failures of programs to achieve cost, performance, or schedule goals.
Sec. 147. Interagency support.
Sec. 148. Monitoring of modifications in information technology acquisition programs.
Sec. 149. Special provisions for Department of Defense.
Sec. 150. Special provisions for Central Intelligence Agency.

Subtitle E—Federal Information Council

Sec. 151. Establishment of Federal Information Council.
Sec. 152. Membership.
Sec. 153. Chairman; executive director.
Sec. 154. Duties.
Sec. 155. Software Review Council.

Subtitle F—Interagency Functional Groups

Sec. 161. Establishment.
Sec. 162. Specific functions.

Subtitle G—Congressional Oversight

Sec. 171. Establishment and organization of Joint Committee on Information.
Sec. 172. Responsibilities of Joint Committee on Information.
Sec. 173. Rulemaking authority of Congress.

Subtitle H—Other Responsibilities

Sec. 181. Responsibilities under the National Institute of Standards and Technology Act.
Sec. 182. Responsibilities under the Computer Security Act of 1987.

TITLE II—PROCESS FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

Subtitle A—Procedures

Sec. 201. Procurement procedures.
Sec. 202. Agency process.
Sec. 203. Incremental acquisition of information technology.
Sec. 204. Authority to limit number of offerors.
Sec. 205. Exception from truth in negotiation requirements.
Sec. 206. Unrestricted competitive procurement of commercial off-the-shelf items of information technology.
Sec. 207. Task and delivery order contracts.
Sec. 208. Two-phase selection procedures.
Sec. 209. Contractor share of gains and losses from cost, schedule, and performance experience.

Subtitle B—Acquisition Management

Sec. 221. Acquisition management team.
Sec. 222. Oversight of acquisitions.

TITLE III—SPECIAL FISCAL SUPPORT FOR INFORMATION INNOVATION

Subtitle A—Information Technology Fund

Sec. 301. Establishment.
Sec. 302. Accounts.

Subtitle B—Innovation Loan Account

Sec. 321. Availability of fund for loans in support of information innovation.
Sec. 322. Repayment of loans.
Sec. 323. Savings from information innovations.
Sec. 324. Funding.

Subtitle C—Common Use Account

Sec. 331. Support of multiagency acquisitions of information technology.
Sec. 332. Funding.

Subtitle D—Other Fiscal Policies

Sec. 341. Limitation on use of funds.
Sec. 342. Sense of Congress.
Sec. 343. Review by GAO and inspectors general.

TITLE IV—INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAMS

Subtitle A—Conduct of Pilot Programs

Sec. 401. Requirement to conduct pilot programs.
Sec. 402. Tests of innovative procurement methods and procedures.
Sec. 403. Evaluation criteria and plans.
Sec. 404. Report.
Sec. 405. Recommended legislation.
Sec. 406. Rule of construction.

Subtitle B—Specific Pilot Programs

Sec. 421. Share-in-savings pilot program.
Sec. 422. Solutions-based contracting pilot program.
Sec. 423. Pilot program for contracting for performance of acquisition functions.
Sec. 424. Major acquisitions pilot programs.

TITLE V—OTHER INFORMATION RESOURCES MANAGEMENT REFORMS

Sec. 501. Transfer of responsibility for FACNET.
Sec. 502. On-line multiple award schedule ordering.
Sec. 503. Upgrading information equipment in agency field offices.
Sec. 504. Disposal of excess computer equipment.
Sec. 505. Leasing information technology.
Sec. 506. Continuation of eligibility of contractor for award of information technology contract after providing design and engineering services.
Sec. 507. Enhanced performance incentives for information technology acquisition workforce.

TITLE VI—ACTIONS REGARDING CURRENT INFORMATION TECHNOLOGY PROGRAMS

Sec. 601. Performance measurements.
Sec. 602. Independent assessment of programs.
Sec. 603. Current information technology acquisition program defined.

TITLE VII—PROCUREMENT PROTEST AUTHORITY OF THE COMPTROLLER GENERAL

Sec. 701. Remedies.
Sec. 702. Period for processing protests.
Sec. 703. Definition.

TITLE VIII—RELATED TERMINATIONS, CONFORMING AMENDMENTS, AND CLERICAL AMENDMENTS

Subtitle A—Related Terminations

Sec. 801. Office of Information and Regulatory Affairs.
Sec. 802. Senior information resources management officials.

Subtitle B—Conforming Amendments

Sec. 811. Amendments to title 10, United States Code.
Sec. 812. Amendments to title 28, United States Code.
Sec. 813. Amendments to title 31, United States Code.
Sec. 814. Amendments to title 38, United States Code.
Sec. 815. Provisions of title 44, United States Code, and other laws relating to certain joint committees of Congress.
Sec. 816. Provisions of title 44, United States Code, relating to paperwork reduction.
Sec. 817. Amendment to title 49, United States Code.
Sec. 818. Other laws.

Subtitle B—Clerical Amendments

Sec. 821. Amendment to title 10, United States Code.
Sec. 822. Amendment to title 38, United States Code.
Sec. 823. Amendments to title 44, United States Code.

TITLE IX—SAVINGS PROVISIONS

Sec. 901. Savings provisions.

TITLE X—EFFECTIVE DATES

Sec. 1001. Effective dates.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Federal information systems are critical to the lives of every American.

(2) The efficiency and effectiveness of the Federal Government is dependent upon the effective use of information.

(3) The Federal Government annually spends billions of dollars operating obsolete information systems.

(4) The use of obsolete information systems severely limits the quality of the services that the Federal Government provides, the efficiency of Federal Government operations, and the capabilities of the Federal Government to account for how taxpayer dollars are spent.

(5) The failure to modernize Federal Government information systems, despite efforts to do so, has resulted in the waste of billions of dollars that cannot be recovered.

(6) Despite improvements achieved through implementation of the Chief Financial Officers Act of 1990, most Federal agencies cannot track the expenditures of Federal dollars and, thus, expose the taxpayers to billions of dollars in waste, fraud, abuse, and mismanagement.

(7) Weak oversight and a lengthy acquisition process have resulted in the American taxpayers not getting their money's worth from the expenditure of $200,000,000,000 on information systems during the decade preceding the enactment of this Act.

(8) The Federal Government does an inadequate job of planning for information technology acquisitions and how such acquisitions will support the accomplishment of agency missions.

(9) Many Federal Government personnel lack the basic skills necessary to effectively and efficiently use information technology and other information resources in support of agency programs and missions.

(10) Federal regulations governing information technology acquisitions are outdated, focus on process rather than results, and prevent the Federal Government from taking timely advantage of the rapid advances taking place in the competitive and fast changing global information technology industry.

(11) Buying, leasing, or developing information systems should be a top priority for Federal agency management because the high potential for the systems to substantially improve Federal Government operations, including the delivery of services to the public.

(12) Organizational changes are necessary in the Federal Government in order to improve Federal information management and to facilitate Federal Government acquisition of the state-of-the-art information technology that is critical for improving the efficiency and effectiveness of Federal Government operations.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To create incentives for the Federal Government to strategically use information technology in order to achieve efficient and effective operations of the Federal Government, to provide cost effective and efficient delivery of Federal Government services to the taxpayers, to provide greater protection of the health and safety of Americans, and to enhance the national security of the United States.

(2) To provide for the cost effective and timely acquisition, management, and use of effective information technology solutions.

(3) To transform the process-oriented procurement system of the Federal Government, as it relates to the acquisition of information technology, into a results-oriented procurement system.

(4) To increase the responsibility of officials of the Office of Management and Budget and other Federal Government agencies, and the accountability of such officials to Congress and the public, for achieving agency missions, including achieving improvements in the efficiency and effectiveness of Federal Government programs through the use of information technology and other information resources in support of agency missions.

(5) To ensure that the heads of Federal Government agencies are responsible and accountable for acquiring, using, and strategically managing information resources in a manner that achieves significant improvements in the performance of agency missions in pursuit of a goal of achieving service delivery levels and project management performance comparable to the best in the private sector.

(6) To promote the development and operation of secure, multiple-agency and Governmentwide, interoperable, shared information resources to support the performance of Federal Government missions.

(7) To reduce fraud, waste, abuse, and errors resulting from a lack of, or poor implementation of, Federal Government information systems.

(8) To increase the capability of Federal Government agencies to restructure and improve processes before applying information technology.

(9) To increase the emphasis placed by Federal agency managers on completing effective planning and mission analysis before applying information technology to the execution of plans and the performance of agency missions.

(10) To coordinate, integrate, and, to the extent practicable and appropriate, establish uniform Federal information resources management policies and practices in order to improve the productivity, efficiency, and effectiveness of Federal Government programs and the delivery of services to the public.

(11) To strengthen the partnership between the Federal Government and State, local, and tribal governments for achieving Federal Government missions, goals, and objectives.

(12) To provide for the development of a well-trained core of professional Federal Government information resources managers.

SEC. 4. DEFINITIONS.

In this Act:

(1) INFORMATION RESOURCES.—The term ''information resources'' means the resources used in the collection, processing, maintenance, use, sharing, dissemination, or disposition of information, including personnel, equipment, funds, and information technology.

(2) INFORMATION RESOURCES MANAGEMENT.—The term ''information resources management'' means the process of managing information resources to accomplish agency missions and to improve agency performance.

(3) INFORMATION SYSTEM.—The term ''information system'' means a discrete set of information resources, whether automated or manual, that are organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information in accordance with defined procedures and includes computer systems.

(4) INFORMATION TECHNOLOGY.—The term ''information technology'', with respect to an executive agency—

(A) means any equipment or interconnected system or subsystem of equipment, including software, services, satellites, sensors, an information system, or a telecommunication system, that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency or under a contract with the executive agency which (i) requires the use of such system or subsystem of equipment, or (ii) requires the use, to a significant extent, of such system or subsystem of equipment in the performance of a service or the furnishing of a product; and

(B) does not include any such equipment that is acquired by a Federal contractor incidental to a Federal contract.

(5) INFORMATION ARCHITECTURE.—The term ''information architecture'', with respect to an executive agency, means a framework or plan for evolving or maintaining existing information technology, acquiring new information technology, and integrating the agency's information technology to achieve the agency's strategic goals and information resources management goals.

(6) EXECUTIVE DEPARTMENT.—The term ''executive department'' means an executive department specified in section 101 of title 5, United States Code.

(7) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given the term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(8) HIGH-RISK INFORMATION TECHNOLOGY PROGRAM.—The term ''high-risk information technology program'' means an acquisition of an information system, or components of an information system, that requires special management attention because—

(A) the program cost is at least $100,000,000;

(B) the system being developed under the program is critical to the success of an executive agency in fulfilling the agency's mission;

(C) there is a significant risk in the development of the system because of—

(i) the size or scope of the development project;

(ii) the period necessary for completing the project;

(iii) technical configurations;

(iv) unusual security requirements;

(v) the special management skills necessary for the management of the project; or

(vi) the highly technical expertise necessary for the project; or

(D) it is or will be necessary to allocate a significant percentage of the information technology budget of an executive agency to paying the costs of developing, operating, or maintaining the system.

(9) COMMERCIAL ITEM.—The term ''commercial item'' has the meaning given that term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(10) NONDEVELOPMENTAL ITEM.—The term ''nondevelopmental item'' has the meaning given that term in section 4(13) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(13)).

TITLE I—RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

Subtitle A—General Authority

SEC. 101. AUTHORITY OF HEADS OF EXECUTIVE AGENCIES.

The heads of the executive agencies may conduct acquisitions of information technology pursuant to their respective authorities under title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251, et seq.), chapters 4 and 137 of title 10, United States Code, and the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.).

SEC. 102. SUPERIOR AUTHORITY OF DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET.

Notwithstanding section 101 and the authorities referred to in such section, the conduct of an acquisition of information technology by the head of an executive agency is subject to (1) the authority, direction, and control of the Director of the Office of Management and Budget and the Chief Information Officer of the United States, and (2) the provisions of this Act.

SEC. 103. REPEAL OF CENTRAL AUTHORITY OF THE ADMINISTRATOR OF GENERAL SERVICES.

Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is repealed.

Subtitle B—Director of the Office of Management and Budget

SEC. 121. RESPONSIBILITY OF DIRECTOR.

(a) IN GENERAL.—The Director of the Office of Management and Budget is responsible for

the effective and efficient acquisition, use, and disposal of information technology and other information resources by the executive agencies.

(b) GOAL.—It shall be a goal of the Director to maximize the productivity, efficiency, and effectiveness of the information resources of the Federal Government to serve executive agency missions.

(c) ACTIONS TO BE TAKEN THROUGH CHIEF INFORMATION OFFICER.—The Director shall act through the Chief Information Officer of the United States in the exercise of authority under this Act.

SEC. 122. SPECIFIC RESPONSIBILITIES.

(a) RESPONSIBILITIES STATED.—The Director of the Office of Management and Budget has the following responsibilities with respect to the executive agencies:

(1) To provide direction for, and oversee, the acquisition and management of information resources.

(2) To develop, coordinate, and supervise the implementation of policies, principles, standards, and guidelines for information resources, performance of information resources management functions and activities, and investment in information resources.

(3) To determine the information resources that are to be provided in common for executive agencies.

(4) To designate (as the Director considers appropriate) one or more heads of executive agencies as an executive agent to contract for Governmentwide information technology.

(5) To maintain a registry of most effective agency sources of information technology program management and contracting services, and to facilitate interagency use of such sources.

(6) To promulgate standards and guidelines pertaining to Federal information systems in accordance with section 124.

(7) To carry out an information systems security and privacy program for the information systems of the Federal Government, including to administer the provisions of section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–4) relating to the Computer System Security and Privacy Advisory Board.

(8) To provide for Federal information system security training in accordance with section 5(c) of the Computer Security Act of 1987 (40 U.S.C. 759(c)).

(9) To encourage and advocate the adoption of national and international information technology standards that are technically and economically beneficial to the Federal Government and the private sector.

(b) CONSULTATION WITH FEDERAL INFORMATION COUNCIL.—(1) The Director shall consult with the Federal Information Council regarding actions to be taken under paragraphs (3) and (4) of subsection (a).

(2) The Director may consult with the Federal Information Council regarding the performance of any other responsibility of the Director under this Act.

SEC. 123. PERFORMANCE-BASED AND RESULTS-BASED MANAGEMENT.

(a) EVALUATION OF AGENCY PROGRAMS AND INVESTMENTS.—

(1) REQUIREMENT.—The Director of the Office of Management and Budget shall evaluate the information resources management practices of the executive agencies and the performance and results of the information technology investments of executive agencies.

(2) CONSIDERATION OF ADVICE AND RECOMMENDATIONS.—In performing the evaluation, the Director shall consider any advice and recommendations provided by the Federal Information Council or in any interagency or independent review or vendor or user survey conducted pursuant to this section.

(b) CONTINUOUS REVIEW REQUIRED.—The Director shall ensure, by reviewing each executive agency's budget proposals, information resources management plans, and performance measurements, and by other means, that—

(1) the agency—

(A) provides adequately for the integration of the agency's information resources management plans, strategic plans prepared pursuant to section 306 of title 5, United States Code, and performance plans prepared pursuant to section 1115 of title 31, United States Code; and

(B) budgets for the acquisition and use of information technology;

(2) the agency analyzes its missions and, based on the analysis, revises its mission-related processes and administrative processes as appropriate before making significant investments in information technology to be used in support of agency missions;

(3) the agency's information resources management plan is current and adequate and, to the maximum extent practicable, specifically identifies how new information technology to be acquired is expected to improve agency operations and otherwise expected to benefit the agency;

(4) efficient and effective interagency and Governmentwide information technology investments are undertaken to improve the accomplishment of common agency missions; and

(5) agency information security is adequate.

(c) PERIODIC REVIEWS.—

(1) REVIEWS REQUIRED.—The Director shall periodically review selected information resources management activities of the executive agencies in order to ascertain the efficiency and effectiveness of such activities in improving agency performance and the accomplishment of agency missions.

(2) INDEPENDENT REVIEWERS.—(A) The Director may carry out a review of an executive agency under this subsection through—

(i) the Comptroller General of the United States (with the consent of the Comptroller General);

(ii) the Inspector General of the agency (in the case of an agency having an Inspector General); or

(iii) in the case of a review requiring an expertise not available to the Director for the review, a panel of officials of executive agencies or a contractor.

(B) The Director shall notify the head of a Federal agency of any determination made by the Director to provide for a review to be performed by an independent reviewer from outside the agency.

(C) A review of an executive agency by the Comptroller General of the United States may be carried out only pursuant to an interagency agreement entered into by the Director and the Comptroller General. The agreement shall provide for the Director to pay the Comptroller General the amount necessary to reimburse the Comptroller General for the costs of performing the review.

(3) FUNDING.—Funds available to an executive agency for acquisition or use of information technology shall be available for paying the costs of a review of activity of that agency under this subsection.

(4) REPORT AND RESPONSE.—The Director shall transmit to the head of an executive agency reviewed under this subsection a report on the results of the review. Within 30 days after receiving the report, the head of the executive agency shall submit to the Director a written plan (including milestones) on the actions that the head of the executive agency determines necessary in order—

(A) to resolve any information resources management problems identified in the report; and

(B) to improve the performance of agency missions and other agency performance.

(d) VENDOR SURVEYS.—The Director shall conduct surveys of vendors and other sources of information technology acquired by an executive agency in order to determine the level of satisfaction of those sources with the performance of the executive agency in conducting the acquisition or acquisitions involved. The Director shall afford the sources the opportunity to rate the executive agency anonymously.

(e) USER SURVEYS.—

(1) REQUIREMENT.—The Director shall conduct surveys of users of information technology acquired by an executive agency in order to determine the level of satisfaction of the users with the performance of the vendor.

(2) COMPILATION OF SURVEY RESULTS.—The Director shall compile the results of the surveys into an annual report and make the annual report available electronically to the heads of the executive agencies.

(f) ENFORCEMENT OF ACCOUNTABILITY.—

(1) IN GENERAL.—The Director may take any action that the Director considers appropriate, including an action involving the budgetary process or appropriations management process, to enforce accountability for poor performance of information resources management in an executive agency.

(2) SPECIFIC ACTIONS.—Actions taken by the Director in the case of an executive agency may include such actions as the following:

(A) Reduce the amount proposed by the head of the executive agency to be included for information resources in the budget submitted to Congress under section 1105(a) of title 31, United States Code.

(B) Reduce or otherwise adjust apportionments and reapportionments of appropriations for information resources.

(C) Use other authorized administrative controls over appropriations to restrict the availability of funds for information resources.

(D) Disapprove the commencement or continuance of an information technology investment by the executive agency.

(E) Designate for the executive agency an executive agent to contract with private sector sources for—

(i) the performance of information resources management (subject to the approval and continued oversight of the Director); or

(ii) the acquisition of information technology.

(F) Withdraw all or part of the head of the executive agency's authority to contract directly for information technology.

(g) ENFORCEMENT ACTIONS RELATED TO COST, PERFORMANCE, AND SCHEDULE GOALS.—

(1) REQUIRED TERMINATIONS OF ACQUISITIONS.—The Director shall terminate any high-risk information technology program or phase or increment of the program that—

(A) is more than 50 percent over the cost goal established for the program or a phase or increment of the program;

(B) fails to achieve at least 50 percent of the performance goals established for the program or a phase or increment of a program; or

(C) is more than 50 percent behind schedule as determined in accordance with the schedule goal established for the program or a phase or increment of the program.

(2) AUTHORIZED TERMINATIONS OF ACQUISITIONS.—The Director shall consider terminating any information technology acquisition that—

(A) is more than 10 percent over the cost goal established for the program or a phase or increment of the program;

(B) fails to achieve at least 90 percent of the performance goals established for the program or a phase or increment of a program; or

(C) is more than 10 percent behind schedule as determined in accordance with the schedule goal established for the program or a phase or increment of the program.

SEC. 124. STANDARDS AND GUIDELINES FOR FEDERAL INFORMATION SYSTEMS.

(a) PROMULGATION RESPONSIBILITY.—The Director of the Office of Management and Budget shall, on the basis of standards and guidelines developed pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (20 U.S.C. 278g–3(a)), promulgate standards and guidelines pertaining to Federal information systems, making such standards compulsory and binding to the extent to which the Director determines necessary to improve the efficiency of operation, interoperability, security, and privacy of Federal information systems. In promulgating standards, the Director should minimize the use of unique standards and adopt market standards to the extent practicable.

(b) MORE STRINGENT STANDARDS AUTHORIZED.—The head of an executive agency may employ standards for the security and privacy of sensitive information in a Federal information system within or under the supervision of that agency that are more stringent than the standards promulgated by the Director, if such standards are approved by the Director, are cost effective, maintain interoperability, and contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Director.

(c) WAIVER AUTHORITY.—The standards determined to be compulsory and binding may be waived by the Director in writing upon a determination that compliance would adversely affect the accomplishment of the mission of an operator of a Federal information system, or cause a major adverse financial impact on the operator which is not offset by Governmentwide savings.

(d) SPECIAL RULE OF APPLICABILITY.—(1) Security standards promulgated by the Director of the Office of Management and Budget do not apply to information systems of the Department of Defense or the Central Intelligence Agency.

(2) The Secretary of Defense shall prescribe security standards applicable to the information systems of the Department of Defense.

(3) The Director of Central Intelligence shall prescribe security standards applicable to the information systems of the Central Intelligence Agency.

SEC. 125. CONTRACTING FOR PERFORMANCE OF INFORMATION RESOURCES MANAGEMENT FUNCTIONS.

The Director of the Office of Management and Budget may contract for the performance of an information resources management function for the executive branch.

SEC. 126. REGULATIONS.

(a) AUTHORITY.—The Director of the Office of Management and Budget may prescribe regulations to carry out the provisions of this Act.

(b) SIMPLICITY OF REGULATIONS.—To the maximum extent practicable, the Director shall minimize the length and complexity of the regulations and establish clear and concise implementing regulations.

(c) INCORPORATION INTO FAR.—The regulations shall be made a part of the Federal Acquisition Regulation.

(d) PROHIBITION AGAINST AGENCY SUPPLEMENTAL REGULATIONS.—The head of an executive agency may not prescribe supplemental regulations for the regulations prescribed by the Director under subsection (a).

Subtitle C—Chief Information Officer of the United States

SEC. 131. OFFICE OF THE CHIEF INFORMATION OFFICER OF THE UNITED STATES.

(a) ESTABLISHMENT.—There is established in the Office of Management and Budget an Office of the Chief Information Officer of the United States.

(b) CHIEF INFORMATION OFFICER OF THE UNITED STATES.—

(1) APPOINTMENT.—The Chief Information Officer of the United States is appointed by the President, by and with the advice and consent of the Senate, from among persons who have demonstrated the knowledge, skills, and abilities in management and in information resources management that are necessary to perform the functions of the Office of the Chief Information Officer of the United States effectively. The qualifications considered shall include education, work experience, and professional activities related to information resources management.

(2) HEAD OF OFFICE.—The Chief Information Officer is the head of the Office of the Chief Information Officer of the United States.

(3) EXECUTIVE LEVEL II.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

''Chief Information Officer of the United States.''.

(c) ADMINISTRATIVE PROVISIONS.—

(1) APPOINTMENT OF EMPLOYEES.—The Chief Information Officer appoints the employees of the office.

(2) EMPLOYEE QUALIFICATIONS.—In selecting a person for appointment as an employee in an information resources management position, the Chief Information Officer shall afford special attention to the person's demonstrated abilities to perform the information resources management functions of the position. The qualifications considered shall include education, work experience, and professional activities related to information resources management.

(3) PAY FOR PERFORMANCE.—(A) The Chief Information Officer shall establish a pay for performance system for the employees of the office and pay the employees in accordance with that system.

(B) Subject to the approval of the Director of the Office of Management and Budget, the Chief Information Officer may submit to Congress any recommendations for legislation that the Chief Information Officer considers necessary to implement fully the pay for performance system.

(4) SUPPORT FROM OTHER AGENCIES.—Upon the request of the Chief Information Officer, the head of an executive agency (other than an independent regulatory agency) shall, to the extent practicable, make services, personnel, or facilities of the agency available to the Office of the Chief Information Officer of the United States for the performance of functions of the Chief Information Officer.

SEC. 132. RELATIONSHIP OF CHIEF INFORMATION OFFICER TO DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET; PRINCIPAL DUTIES.

(a) REPORTING AUTHORITY.—The Chief Information Officer of the United States reports directly to the Director.

(b) PRINCIPAL ADVISER TO DIRECTOR OF OMB ON INFORMATION RESOURCES MANAGEMENT.—The Chief Information Officer is the principal adviser to the Director on information resources management policy, including policy on acquisition of information technology for the Federal Government.

(c) PERFORMANCE OF DUTIES OF DIRECTOR OF OMB.—

(1) IN GENERAL.—The Chief Information Officer shall perform the responsibilities of the Director under this Act.

(2) CONTINUED RESPONSIBILITY OF DIRECTOR.—Paragraph (1) does not relieve the Director of responsibility and accountability for the performance of such responsibilities.

(d) AUTHORITY SUBJECT TO CONTROL OF DIRECTOR OF OMB.—The performance of duties and exercise of authority by the Chief Information Officer is subject to the authority, direction, and control of the Director of the Office of Management and Budget.

SEC. 133. ADDITIONAL DUTIES.

The Chief Information Officer has the following additional duties:

(1) To encourage the executive agencies to develop and use the best practices in information resources management and in acquisitions of information technology by—

(A) identifying and collecting information regarding the best practices, including information on the development and implementation of the best practices by the executive agencies; and

(B) providing the executive agencies with information on the best practices and with advice and assistance regarding use of the best practices.

(2) To assess, on a continuing basis, the experiences of executive agencies, State and local governments, international organizations, and the private sector in managing information resources.

(3) To compare the performances of the executive agencies in using information resources and to disseminate the comparisons to the executive agencies.

(4) To develop and maintain a Governmentwide strategic plan for information resources management and acquisitions of information technology, including guidelines and standards for the development of an information resources management plan to be used by the executive agencies.

(5) To ensure that the information resources management plan and the information systems of executive agencies conform to the guidelines and standards set forth in the Governmentwide strategic plan.

(6) To develop and submit to the Director of the Office of Management and Budget proposed legislation and proposed changes or additions to regulations and agency procedures as the Chief Information Officer considers necessary in order to improve information resources management by the executive agencies.

(7) To review the regulations, policies, and practices of executive agencies regarding information resources management and acquisitions of information technology in order to identify the regulations, policies, and practices that should be eliminated or adjusted so as not to hinder or impede information resources management or acquisitions of information technology.

(8) To monitor the development and implementation of training in information resources management for executive agency management personnel and staff.

(9) To keep Congress fully informed on high-risk information technology programs of the executive agencies, and the extent to which the executive agencies are improving program performance and the accomplishment of agency missions through the use of the best practices in information resources management.

(10) To review Federal procurement policies on acquisitions of information technology and to coordinate with the Administrator for Federal Procurement Policy regarding the development of Federal procurement policies for such acquisitions.

(11) To facilitate the establishment and maintenance of an electronic clearinghouse

of information on the availability of nondevelopmental items of information technology for the Federal Government.

(12) To perform the functions of the Director of the Office of Management and Budget under chapter 35 of title 44, United States Code.

SEC. 134. ACQUISITIONS UNDER HIGH-RISK INFORMATION TECHNOLOGY PROGRAMS.

(a) ADVANCE PROGRAM REVIEW.—The Chief Information Officer of the United States shall review each proposed high-risk information technology program.

(b) ADVANCE APPROVAL REQUIRED.—No program referred to in subsection (a) may be carried out by the head of an executive agency without the advance approval of the Chief Information Officer of the United States.

SEC. 135. ELECTRONIC DATA BASE ON CONTRACTOR PERFORMANCE.

(a) ESTABLISHMENT.—The Chief Information Officer of the United States shall establish in the Office of the Chief Information Officer of the United States an electronic data base containing a record of the performance of each contractor under a Federal Government contract for the acquisition of information technology or other information resources.

(b) REPORTING OF INFORMATION TO DATA BASE.—

(1) REQUIREMENT.—The head of each executive agency shall, in accordance with regulations prescribed by the Director of the Office of Management and Budget, report to the Chief Information Officer information on contractor performance that is to be included in the data base.

(2) WHEN SUBMITTED.—The head of an executive agency shall submit to the Director—

(A) an annual report on contractor performance during the year covered by the report; and

(B) upon the completion or termination of performance under a contract, a report on the contractor performance under that contract.

(c) PERIOD FOR INFORMATION TO BE MAINTAINED.—Information on the performance of a contractor under a contract shall be maintained in the data base for five years following completion of the performance under that contract. Information not required to be maintained under the preceding sentence shall be removed from the data base or rendered inaccessible.

Subtitle D—Executive Agencies

SEC. 141. RESPONSIBILITIES.

(a) IN GENERAL.—The head of an executive agency is responsible for—

(1) carrying out the information resources management activities of the agency in a manner that fulfills the agency's missions and improves agency productivity, efficiency, and effectiveness; and

(2) complying with the requirements of this Act and the policies, regulations, and directives issued by the Director of the Office of Management and Budget or the Chief Information Officer of the United States under the provisions of this Act.

(b) INFORMATION RESOURCES MANAGEMENT PLAN.—

(1) PLAN REQUIRED.—The head of an executive agency shall develop, maintain, and oversee the implementation of an agency-wide information resources management plan that is consistent with the strategic plan prepared by the head of the agency pursuant to section 306 of title 5, United States Code, and the agency head's mission analysis, and ensure that the agency information systems conform to those plans.

(2) CONTENT OF PLAN.—The information resources management plan shall provide for applying information technology and other information resources in support of the performance of the missions of the agency and shall include the following:

(A) A statement of goals for improving the contribution of information resources to program productivity, efficiency, and effectiveness.

(B) Methods for measuring progress toward achieving the goals.

(C) Assignment of clear roles, responsibilities, and accountability for achieving the goals.

(D) Identification of—

(i) the existing and planned information technology components (such as information systems and telecommunication networks) of the agency and the relationship among the information technology components; and

(ii) the information architecture for the agency.

(c) AGENCY RECORDS.—The head of an executive agency shall periodically evaluate and, as necessary, improve the accuracy, completeness, and reliability of data and records in the information systems of the agency.

(d) BUDGETING.—The head of an executive agency shall use the strategic plan, performance plans, and information resources management plan of the agency in preparing and justifying the agency's budget proposals to the Director of the Office of Management and Budget and to Congress.

SEC. 142. SPECIFIC AUTHORITY.

The authority of the head of an executive agency under section 101 and the authorities referred to in such section includes the following authorities:

(1) To acquire information technology—

(A) in the case of an acquisition of less than $100,000,000, without the advance approval of the Chief Information Officer of the United States; and

(B) in the case of an acquisition of a high-risk information technology program, with the advance approval of the Director of the Office of Management and Budget.

(2) To enter into a contract that provides for multi-agency acquisitions of information technology subject to the approval and guidance of the Federal Information Council.

(3) If the Federal Information Council and the heads of the executive agencies concerned find that it would be advantageous for the Federal Government to do so, to enter into a multi-agency contract for procurement of commercial items that requires each agency covered by the contract, when procuring such items, either to procure the items under that contract or to justify an alternative procurement of the items.

(4) To establish one or more independent technical review committees, composed of diverse agency personnel (including users) and outside experts selected by the head of the executive agency, to advise the head of the executive agency about information systems programs.

SEC. 143. AGENCY CHIEF INFORMATION OFFICER.

(a) DESIGNATION OF CHIEF INFORMATION OFFICERS.—

(1) AGENCIES REQUIRED TO HAVE CHIEF INFORMATION OFFICERS.—There shall be a chief information officer within each executive agency named in section 901(b) of title 31, United States Code. The head of the executive agency shall designate the chief information officer for the executive agency.

(2) AGENCIES AUTHORIZED TO HAVE CHIEF INFORMATION OFFICERS.—The head of any executive agency not required by paragraph (1) to have a chief information officer may designate a chief information officer for the executive agency.

(b) RELATIONSHIP TO AGENCY HEAD.—

(1) PRINCIPAL ADVISER.—The chief information officer of an executive agency is the principal adviser to the head of the executive agency regarding acquisition of information technology and management of information resources for the agency.

(2) REPORTING AUTHORITY.—The chief information officer of an executive agency reports directly to the head of the executive agency.

(3) CONTROL BY AGENCY HEAD.—The performance of duties and exercise of authority by the chief information officer of an executive agency is subject to the authority, direction, and control of the head of the executive agency.

(c) DUTIES.—

(1) IN GENERAL.—The chief information officer of an executive agency shall provide advice and other assistance to the head of the executive agency and other senior management personnel of the executive agency to ensure that information technology is acquired and information resources are managed for the agency in a manner that—

(A) maximizes—

(i) the benefits derived by the agency and the public served by the agency from use of information technology; and

(ii) the public accountability of the agency for delivery of services and accomplishment of the agency's mission; and

(B) is consistent with the policies, requirements, and procedures that are applicable in accordance with this Act to the acquisition and management of information technology.

(2) ESTABLISHMENT OF GOALS.—The chief information officer of an executive agency shall—

(A) establish goals for improving the efficiency and effectiveness of agency operations and the delivery of services to the public through the effective use of information resources; and

(B) submit to the head of the executive agency an annual report, to be included in the budget submission for the executive agency, on the progress in achieving the goals.

(3) INFORMATION RESOURCES MANAGEMENT.—(A) The chief information officer of an executive agency shall administer the information resources management functions, including the acquisition functions, of the head of the executive agency.

(B) Subparagraph (A) does not relieve the head of an executive agency of responsibility and accountability for the administration of such functions.

(4) AGENCY POLICIES.—The chief information officer shall prescribe policies and procedures that—

(A) minimize the layers of review for acquisitions of information technology within the executive agency;

(B) foster timely communications between vendors of information technology and the agency; and

(C) set forth and require the use of information resources management practices and information technology acquisition practices that the chief information officer considers as being among the best of such practices.

(5) AGENCY PLANNING.—The chief information officer shall—

(A) develop and maintain an information resources management plan for management of information resources and acquisition of information technology for the executive agency; and

(B) ensure that there is adequate advance planning for acquisitions of information technology, including assessing and revising the mission-related processes and administrative processes of the agency as determined appropriate before making information system investments.

(6) PERFORMANCE MEASUREMENTS.—(A) The chief information officer shall ensure that—

(i) performance measurements are prescribed for information technology used by

or to be acquired for the executive agency; and

(ii) the performance measurements measure how well the information technology supports agency programs.

(B) In carrying out the duty set forth in subparagraph (A), the chief information officer shall consult with the head of the executive agency, agency managers, users, and program managers regarding the performance measurements that are to be prescribed for information technology.

(7) MONITORING OF PROGRAM PERFORMANCE.—The chief information officer shall monitor the performance of information technology programs of the executive agency, evaluate the performance on the basis of the applicable performance measurements, and advise the head of the executive agency regarding whether to continue or terminate programs.

(8) PROGRAM PERFORMANCE REPORTS.—(A) Not later than February 1, 1997, and not later than February 1 of each year thereafter, the chief information officer of an executive agency shall prepare and submit to the head of the executive agency an annual program performance report for the information technology programs of the executive agency. The report shall satisfy the requirements of section 1116(d) of title 31, United States Code.

(B) The head of the executive agency shall transmit a copy of the annual report to the Chief Information Officer of the United States.

(9) ADDITIONAL ASSIGNED DUTIES.—A chief information officer designated under subsection (a)(1) may not be assigned any duty that is not related to information resources management.

(d) OFFICE OF CHIEF INFORMATION OFFICER.—

(1) ESTABLISHMENT.—The head of an executive agency designating a chief information officer shall establish within the agency an Office of the Chief Information Officer.

(2) HEAD OF OFFICE.—The chief information officer of the executive agency shall be the head of the office.

(3) STAFF.—(A) The head of the executive agency appoints the employees of the office. The chief information officer of the executive agency may make recommendations for appointments to positions in the office.

(B) In selecting a person for appointment to an information resources management position in the office, the head of the executive agency shall afford special attention to the demonstrated abilities of the person to perform the information resources management functions of the position. To the maximum extent practicable, the head of the executive agency shall appoint to the position a person who has direct and substantial experience in successfully achieving major improvements in organizational performance through the use of information technology.

(e) EXECUTIVE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Chief information officers designated under section 143 of the Information Technology Management Reform Act of 1995.''.

SEC. 144. ACCOUNTABILITY.

(a) INFORMATION TECHNOLOGY INVESTMENTS.—The head of an executive agency shall be accountable to the Director of the Office of Management and Budget, through the budget process and otherwise as the Director may prescribe, for attaining or failing to attain success in the achievement of the program objectives established for the information technology investments of the agency.

(b) SYSTEM OF CONTROLS.—The head of an executive agency, in consultation with the chief financial officer of the agency (or, in the case of an agency without a chief financial officer, any comparable official) shall establish policies and procedures that—

(1) provide for sound management of expenditures for information technology investments of the agency;

(2) ensure that the accounting, financial, and asset management systems and other information systems of the agency are designed, developed, maintained, and used effectively to provide financial or program performance data for financial statements of the agency;

(3) ensure that financial and related program performance data are provided on a reliable, consistent, and timely basis to agency financial management systems;

(4) ensure that there is a full and accurate accounting for information technology expenditures, including expenditures for related expenses, and for the results derived by the agency from the expenditures; and

(5) ensure that financial statements support—

(A) assessment and revision of mission-related processes and administrative processes of the agency; and

(B) performance measurement in the case of information system investments made by the agency.

(c) PROTECTION OF SENSITIVE INFORMATION.—Section 6 of the Computer Security Act of 1987 (Public Law 100–235; 101 Stat. 1729) is amended—

(1) in subsection (a), by striking out ''Within 6 months after the date of enactment of this Act, each'' and inserting in lieu thereof ''Each''; and

(2) in the first sentence of subsection (b)—

(A) by striking out ''Within one year after the date of enactment of this Act, each'' and inserting in lieu thereof ''Each''; and

(B) by striking out ''section 111(d) of the Federal Property and Administrative Services Act of 1949'' and inserting in lieu thereof ''section 124 of the Information Technology Management Reform Act of 1995''.

SEC. 145. AGENCY MISSIONS AND THE APPROPRIATENESS OF INFORMATION TECHNOLOGY INITIATIVES.

(a) PROVIDING FOR APPROPRIATE INITIATIVES.—Before making investments in information technology or other information resources for the performance of agency missions, the head of each executive agency shall—

(1) identify opportunities to revise mission-related processes and administrative processes, assess the desirability of making the revisions, and, if determined desirable, take appropriate action to make and complete the revisions; and

(2) determine the most efficient and effective manner for carrying out the agency missions.

(b) MISSION ANALYSIS.—

(1) CONTINUOUS STUDIES.—In order to be prepared to carry out subsection (a) in an efficient, effective, and timely manner, the head of an executive agency shall provide for studies to be conducted on a continuing basis within the agency for the purpose of analyzing the missions of the agency.

(2) ANALYSIS.—The purpose of an analysis of a mission under subsection (a) is to determine—

(A) whether the mission should be performed in the private sector rather than by an agency of the Federal Government and, if so, whether the component of the agency performing that function should be converted from a governmental organization to a private sector organization; or

(B) whether the mission should be performed by the executive agency and, if so, whether the mission should be performed by—

(i) a private sector source under a contract entered into by head of the executive agency; or

(ii) executive agency personnel.

(c) PROCESS IMPROVEMENT STUDIES.—The head of the executive agency shall require that studies be conducted of ways to improve processes used in the performance of missions determined, in accordance with subsection (b) or otherwise, as being appropriate for the agency to perform.

SEC. 146. SIGNIFICANT FAILURES OF PROGRAMS TO ACHIEVE COST, PERFORMANCE, OR SCHEDULE GOALS.

(a) IN GENERAL.—The head of an executive agency shall monitor the performance of information technology acquisition programs of the executive agency with regard to meeting the cost, performance, and schedule goals approved or defined for the programs pursuant to section 313(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 263(b)) or section 2220(a) of title 10, United States Code.

(b) REQUIRED TERMINATIONS OF ACQUISITIONS.—The head of an executive agency shall terminate any information technology acquisition program of the executive agency, or any phase or increment of such a program, that—

(1) is more than 50 percent over the cost goal established for the program or any phase or increment of the program;

(2) fails to achieve at least 50 percent of the performance goals established for the program or any phase or increment of the program; or

(3) is more than 50 percent behind schedule as determined in accordance with the schedule goal established for the program or any phase or increment of the program.

(c) ACQUISITIONS REQUIRED TO BE CONSIDERED FOR TERMINATION.—The head of an executive agency shall consider for termination any information technology acquisition program of the executive agency, or any phase or increment of such a program, that—

(1) is more than 10 percent over the cost goal established for the program or any phase or increment of the program;

(2) fails to achieve at least 90 percent of the performance goals established for the program or any phase or increment of the program; or

(3) is more than 10 percent behind schedule as determined in accordance with the schedule goal established for the program or any phase or increment of the program.

SEC. 147. INTERAGENCY SUPPORT.

The head of an executive agency shall make personnel of the agency and other forms of support available for Government-wide independent review committees and interagency groups established under this Act.

SEC. 148. MONITORING OF MODIFICATIONS IN INFORMATION TECHNOLOGY ACQUISITION PROGRAMS.

(a) REQUIREMENT TO MONITOR AND REPORT.—The program manager for an information technology acquisition program of an executive agency shall monitor the modifications made in the program or any phase or increment of the program, including modifications of cost, schedule, or performance goals, and shall periodically report on such modifications to the chief information officer of the agency.

(b) DETERMINATIONS OF HIGH RISK.—The number and type of the modifications in a program shall be a critical consideration in determinations of whether the program is a high-risk information technology program (without regard to the cost of the program).

(c) ASSESSMENTS OF AGENCY PERFORMANCE.—The Chief Information Officer of the United States shall consider the number and

type of the modifications in an information technology acquisition program of an executive agency for purposes of assessing agency performance.

(d) CONTRACT TERMINATIONS.—The chief information officer of an executive agency shall—

(1) closely review the modifications in an information technology acquisition program of the agency;

(2) consider whether the frequency and extent of the modifications justify termination of a contract under the program; and

(3) if a termination is determined justified, submit to the head of the executive agency a recommendation to terminate the contract.

SEC. 149. SPECIAL PROVISIONS FOR DEPARTMENT OF DEFENSE.

(a) OVERSIGHT OF IMPLEMENTATION WITHIN THE DEPARTMENT OF DEFENSE.—

(1) DELEGATION OF AUTHORITY FOR INDIVIDUAL PROGRAMS AND SYSTEMS.—(A) Subject to subparagraph (B), the Director of the Office of Management and Budget shall delegate to the Secretary of Defense the authority to perform the responsibilities of the Director for supervision of the implementation of the requirements of this Act and the policies, regulations, and procedures prescribed by the Director under this Act in the case of individual information technology programs, including acquisition programs, and information systems of the Department of Defense.

(B) The Director may revoke, in whole or in part, the delegation of authority under subparagraph (A) at any time that the Director determines that it is in the interests of the United States to do so. In considering whether to revoke the authority, the Director shall take into consideration the reports received under subsection (d).

(2) RESPONSIBILITY OF DIRECTOR OF OMB.—The Director of the Office of Management and Budget shall continue to exercise overall responsibility for compliance by the Department of Defense with the provisions of this Act and the policies, regulations, and procedures prescribed by the Director under this Act.

(b) IMPLEMENTATION.—

(1) REQUIREMENT.—The Secretary of Defense shall implement the provisions of this Act within the Department of Defense.

(2) COVERED PROGRAMS.—The Secretary of Defense shall ensure that the provisions of this Act and the policies and regulations prescribed by the Director of the Office of Management and Budget are applied to all information technology programs of the Department of Defense, including—

(A) all such programs that are acquisition programs, including major defense acquisition programs;

(B) programs that involve intelligence activities, cryptologic activities related to national security, command and control of military forces, and information technology integral to a weapon or weapons system; and

(C) programs that are critical to the direct fulfillment of military or intelligence missions.

(c) CHIEF INFORMATION OFFICER.—

(1) DESIGNATION.—The Secretary of Defense shall—

(A) designate the Under Secretary of Defense for Acquisition and Technology as the chief information officer of the Department of Defense; and

(B) delegate to the Under Secretary the duty to perform the responsibilities of the Secretary under this Act.

(2) OTHER DUTIES.—Section 143(c)(9) does not apply to the chief information officer of the Department of Defense.

(d) ANNUAL REPORT.—The Secretary of Defense shall submit to the Director of the Office of Management and Budget an annual report on the implementation of this Act within the Department of Defense.

(e) PILOT PROGRAMS.—

(1) RECOMMENDATIONS BY SECRETARY OF DEFENSE.—The Secretary of Defense may submit to the Chief Information Officer of the United States a recommendation that a specific information technology pilot program be carried out under section 401.

(2) OVERSIGHT OF RECOMMENDED PROGRAM.—If the Chief Information Officer determines to carry out a pilot program in the Department of Defense under section 401, the Director of the Office of Management and Budget shall supervise the pilot program without regard to any delegation of authority under subsection (a).

SEC. 150. SPECIAL PROVISIONS FOR CENTRAL INTELLIGENCE AGENCY.

(a) OVERSIGHT OF IMPLEMENTATION WITHIN THE CIA.—

(1) DELEGATION OF AUTHORITY FOR INDIVIDUAL PROGRAMS AND SYSTEMS.—(A) Subject to subparagraph (B), the Director of the Office of Management and Budget shall delegate to the Director of Central Intelligence the authority to perform the responsibilities of the Director of the Office of Management and Budget for supervision of the implementation of the requirements of this Act and the policies, regulations, and procedures prescribed by the Director of the Office of Management and Budget under this Act in the case of individual information technology programs (including acquisition programs) and information systems of the Central Intelligence Agency.

(B) The Director of the Office of Management and Budget may revoke, in whole or in part, the delegation of authority under subparagraph (A) at any time that the Director determines that it is in the interests of the United States to do so. In considering whether to revoke the authority, the Director shall take into consideration the reports received under subsection (d).

(2) RESPONSIBILITY OF DIRECTOR OF OMB.—The Director of the Office of Management and Budget shall continue to exercise overall responsibility for compliance by the Central Intelligence Agency with the provisions of this Act and the policies, regulations, and procedures prescribed by the Director under this Act.

(b) IMPLEMENTATION.—

(1) REQUIREMENT.—The Director of Central Intelligence shall implement the provisions of this Act within the Central Intelligence Agency.

(2) COVERED PROGRAMS.—The Director of Central Intelligence shall ensure that the provisions of this Act and the policies and regulations prescribed by the Director of the Office of Management and Budget are applied to all information technology programs of the Central Intelligence Agency, including information technology acquisition programs.

(c) CHIEF INFORMATION OFFICER.—

(1) DESIGNATION.—The Director of Central Intelligence shall—

(A) designate the Deputy Director of Central Intelligence as the chief information officer of the Central Intelligence Agency; and

(B) delegate to the Deputy Director the duty to perform the responsibilities of the Director of Central Intelligence under this Act.

(2) OTHER DUTIES.—Section 143(c)(9) does not apply to the chief information officer of the Central Intelligence Agency.

(d) ANNUAL REPORT.—The Director of Central Intelligence shall submit to the Director of the Office of Management and Budget an annual report on the implementation of this Act within the Central Intelligence Agency.

(e) PILOT PROGRAMS.—

(1) RECOMMENDATIONS BY DIRECTOR OF CENTRAL INTELLIGENCE.—The Director of Central Intelligence may submit to the Chief Information Officer of the United States a recommendation that a specific information technology pilot program be carried out under section 401.

(2) OVERSIGHT OF RECOMMENDED PROGRAM.—If the Chief Information Officer determines to carry out a pilot program in the Central Intelligence Agency under section 401, the Director of the Office of Management and Budget shall supervise the pilot program without regard to any delegation of authority under subsection (a).

Subtitle E—Federal Information Council

SEC. 151. ESTABLISHMENT OF FEDERAL INFORMATION COUNCIL.

There is established in the executive branch a ''Federal Information Council''.

SEC. 152. MEMBERSHIP.

The members of the Federal Information Council are as follows:

(1) The chief information officer of each executive department.

(2) The chief information officer or senior information resources management official of each executive agency who is designated as a member of the Council by the Director of the Office of Management and Budget.

(3) Other officers or employees of the Federal Government designated by the Director.

SEC. 153. CHAIRMAN; EXECUTIVE DIRECTOR.

(a) CHAIRMAN.—The Director of the Office of Management and Budget is the Chairman of the Federal Information Council.

(b) EXECUTIVE DIRECTOR.—The Chief Information Officer of the United States is the Executive Director of the Council. The Executive Director provides administrative and other support for the Council.

SEC. 154. DUTIES.

The duties of the Federal Information Council are as follows:

(1) To obtain advice on information resources, information resources management, and information technology from State, local, and tribal governments and from the private sector.

(2) To make recommendations to the Director of the Office of Management and Budget regarding Federal policies and practices on information resources management.

(3) To establish strategic direction and priorities for a Governmentwide information infrastructure.

(4) To assist the Chief Information Officer of the United States in developing and maintaining the Governmentwide strategic information resources management plan.

(5) To coordinate Governmentwide and multi-agency programs and projects for achieving improvements in the performance of Federal Government missions, including taking such actions as—

(A) identifying program goals and requirements that are common to several agencies;

(B) establishing interagency functional groups under section 161;

(C) establishing an interagency group of senior managers of information resources to review high-risk information technology programs;

(D) identifying opportunities for undertaking information technology programs on a shared basis or providing information technology services on a shared basis;

(E) providing for the establishment of temporary special advisory groups, composed of senior officials from industry and the Federal Government, to review Governmentwide information technology programs, high-risk information technology acquisitions, and issues of information technology policy;

(F) coordinating budget estimates and information technology acquisitions in order

to develop a coordinated approach for meeting common information technology goals and requirements; and

(G) reviewing agency programs and processes, to identify opportunities for consolidation of activities or cooperation.

(6) To coordinate the provision, planning, and acquisition of common infrastructure services, such as telecommunications, Governmentwide E-mail, electronic benefits transfer, electronic commerce, and Governmentwide data sharing, by—

(A) making recommendations to the Director of the Office of Management and Budget regarding services that can be provided in common;

(B) making recommendations to the Director regarding designation of an executive agent to contract for common infrastructure services on behalf of the Federal Government;

(C) approving overhead charges by executive agents;

(D) approving a surcharge which may be imposed on selected common infrastructure services and is to be credited to the Common Use Account established by section 331; and

(E) monitoring and providing guidance for the administration of the Common Use Account established by section 331 and the Innovation Loan Account established by section 321 for purposes of encouraging innovation by making financing available for high-opportunity information technology programs, including common infrastructure systems and services.

(7) To assess ways to revise and reorganize Federal Government mission-related and administrative processes before acquiring information technology in support of agency missions.

(8) To monitor and provide guidance for the development of performance measures for agency information resources management activities for Governmentwide applicability.

(9) To submit to the Chief Information Officer of the United States recommendations for conducting pilot projects for the purpose of identifying better ways for Federal Government agencies to plan for, acquire, and manage information resources.

(10) To identify opportunities for sharing information at the Federal, State, and local levels of government and to improve information sharing and communications.

(11) To ensure that United States interests in international information-related activities are served, including coordinating United States participation in the activities of international information organizations.

SEC. 155. SOFTWARE REVIEW COUNCIL.

(a) ESTABLISHMENT.—The Federal Information Council shall establish a Federal Software Review Council.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Federal Information Council, in consultation with the Chief Information Officer of the United States, shall determine the membership of the Federal Software Council. The number of members of the Council may not exceed 10 members.

(2) CERTAIN REPRESENTATION REQUIRED.—The Federal Information Council shall provide for the Government, private industry, and college and universities to be represented on the membership of the Software Review Council.

(c) CHAIRMAN.—The Chief Information Officer of the United States shall serve as Chairman of the Federal Software Review Council.

(d) DUTIES.—

(1) CLEARINGHOUSE FUNCTION.—(A) The Federal Software Review Council shall act as a clearinghouse of information on the software that—

(i) is commercially available to the Federal Government; and

(ii) has been uniquely developed for use by one or more executive agencies.

(B) The Federal Software Review Council shall provide advice to heads of executive agencies regarding recommended software engineering techniques and commercial software solutions appropriate to the agency's needs.

(2) SOFTWARE FOR USE IN DEVELOPMENT OF AGENCY SYSTEMS.—The Federal Software Review Council shall submit to the Federal Information Council proposed guidelines and standards regarding the use of commercial software, nondevelopmental items of software, and uniquely developed software in the development of executive agency information systems.

(3) INTEGRATION OF MULTIPLE SOFTWARE.—The Federal Software Review Council shall submit to the Federal Information Council proposed guidance regarding integration of multiple software components into executive agency information systems.

(4) REVIEW OF PROPOSALS FOR UNIQUELY DEVELOPED ITEMS OF SOFTWARE.—(A) In each case in which an executive agency undertakes to acquire a uniquely developed item of software for an information system used or to be used by the agency, the Federal Software Review Council shall—

(i) determine whether it would be more beneficial to the executive agency to use commercial items or nondevelopmental items to meet the needs of the executive agency; and

(ii) submit the Federal Software Review Council's determination to the head of the executive agency.

(B) Subparagraph (A) applies to an information technology acquisition program in excess of $1,000,000.

Subtitle F—Interagency Functional Groups

SEC. 161. ESTABLISHMENT.

(a) IN GENERAL.—The heads of executive agencies may jointly establish one or more interagency groups, known as ''functional groups''—

(1) to examine issues that would benefit from a Governmentwide or multi-agency perspective;

(2) to submit to the Federal Information Council proposed solutions for problems in specific common operational areas; and

(3) to promote cooperation among agencies on information technology matters.

(b) REQUIREMENT FOR COMMON INTERESTS.—The representatives of the executive agencies participating in a functional group shall have the following common interests:

(1) Involvement in the same or similar functional areas of agency operations.

(2) Mission-related processes or administrative processes that would benefit from common or similar applications of information technology.

(3) The same or similar requirements for—

(A) information technology; or

(B) meeting needs of the common recipients of services of the agencies.

SEC. 162. SPECIFIC FUNCTIONS.

The functions of an interagency functional group are as follows:

(1) To identify common goals and requirements for common agency programs.

(2) To develop a coordinated approach to meeting agency requirements, including coordinated budget estimates and procurement programs.

(3) To identify opportunities to share information for improving the quality of the performance of agency functions, for reducing the cost of agency programs, and for reducing burdens of agency activities on the public.

(4) To coordinate activities and the sharing of information with other functional groups.

(5) To make recommendations to the heads of executive agencies and to the Director of the Office of Management and Budget regarding the selection of protocols and other standards for information technology, including security standards.

(6) To support interoperability among information systems.

(7) To perform other functions, related to the purposes set forth in section 161(a), that are assigned by the Federal Information Council.

Subtitle G—Congressional Oversight

SEC. 171. ESTABLISHMENT AND ORGANIZATION OF JOINT COMMITTEE ON INFORMATION.

(a) ESTABLISHMENT.—There is established in Congress a Joint Committee on Information composed of eight members as follows:

(1) Four members of the Committee on Governmental Affairs of the Senate appointed by the Chairman of that committee.

(2) Four members of the Committee on Government Reform and Oversight of the House of Representatives appointed by the Chairman of that committee.

(b) TERM OF APPOINTMENT.—The term of service of a member on the joint committee shall expire immediately before the convening of the Congress following the Congress during which the member is appointed. A member may be reappointed to serve on the joint committee.

(c) VACANCIES.—A vacancy in the membership of the joint committee does not affect the power of the remaining members to carry out the responsibilities of the joint committee. The vacancy shall be filled in the same manner as the original appointment.

(d) CHAIRMAN AND VICE CHAIRMAN.—

(1) ELECTION BY COMMITTEE.—The chairman and vice chairman of the joint committee shall be elected by the members of the joint committee from among the members of the joint committee.

(2) BICAMERAL COMMITTEE LEADERSHIP.—The chairman and vice chairman may not be members of the same house of Congress.

(3) ROTATION OF LEADERSHIP POSITIONS BETWEEN HOUSES.—The eligibility for election as chairman and for election as vice chairmanship shall alternate annually between the members of one house of Congress and the members of the other house of Congress.

SEC. 172. RESPONSIBILITIES OF JOINT COMMITTEE ON INFORMATION.

(a) IN GENERAL.—The Joint Committee on Information has the following responsibilities:

(1) To review information-related operations of the Federal Government, including the acquisition and management of information technology and other information resources.

(2) To perform studies of major information resources management issues regarding such matters as the following:

(A) Compatibility and interoperability of systems.

(B) Electronic commerce.

(C) Performance measurement.

(D) Process improvement.

(E) Paperwork and regulatory burdens imposed on the public.

(F) Statistics.

(G) Management and disposition of records.

(H) Privacy and confidentiality.

(I) Security and protection of information resources.

(J) Accessibility and dissemination of Government information.

(K) Information technology, including printing and other media.

(L) Information technology procurement policy, training, and personnel.

(3) To submit to the Committees on Governmental Affairs and on Appropriations of

the Senate and the Committees on Government Reform and Oversight and on Appropriations of the House of Representatives recommendations for legislation developed on the basis of the reviews and studies.

(4) To carry out the responsibilities of the joint committee under chapter 1 of title 44, United States Code.

(5) To carry out responsibilities regarding the Library of Congress as provided by the Senate and the House of Representatives.

(b) STUDY REQUIRED.—Upon the organization of the Joint Committee on Information, the joint committee shall consider and develop policies and procedures providing for cooperation among the committees of Congress having jurisdiction over authorizations of appropriations, appropriations, and oversight of departments and agencies of the Federal Government in order to provide incentives for such departments and agencies to maximize effectiveness in the administration of this Act and the amendments made by this Act.

(c) TRANSFERS.—

(1) FUNCTIONS.—The functions of the Joint Committee on Printing and the functions of the Joint Committee of Congress on the Library are transferred to the Joint Committee on Information.

(2) RECORDS.—The records of the Joint Committee on Printing and the records of the Joint Committee of Congress on the Library are transferred to the Joint Committee on Information.

(d) TERMINATION OF SUPERSEDED JOINT COMMITTEES.—The Joint Committee on Printing and the Joint Committee of Congress on the Library are terminated.

SEC. 173. RULEMAKING AUTHORITY OF CONGRESS.

This subtitle is enacted—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as the rules relate to that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

Subtitle H—Other Responsibilities

SEC. 181. RESPONSIBILITIES UNDER THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT.

(a) STANDARDS PROGRAM.—

(1) MISSION AND DUTIES.—Subsection (a) of section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) is amended—

(A) by striking out ''The Institute—'' in the matter preceding paragraph (1) and inserting in lieu thereof ''To the extent authorized by the Director of the Office of Management and Budget, the Director of the Institute shall—'' ;

(B) in paragraph (3), by striking out ''have responsibility within the Federal Government'' and inserting in lieu thereof ''carry out the responsibility of the Director of the Office of Management and Budget''; and

(C) in paragraph (4), by striking out ''to the Secretary of Commerce for promulgation under section 111(d) of the Federal Property and Administrative Services Act of 1949'' and inserting in lieu thereof ''to the Director of the Office of Management and Budget under section 124 of the Information Technology Management Reform Act of 1995''

(2) AUTHORITY.—Subsection (b) of such section is amended—

(A) by striking out ''In fulfilling subsection (a) of this section, the Institute is authorized'' in the matter preceding paragraph (1) and inserting in lieu thereof ''In order to carry out duties authorized under subsection (a), the Director of the Institute may, to the extent authorized by the Director of the Office of Management and Budget—'';

(B) in paragraph (2), by striking out ''Administrator of General Services on policies and regulations proposed pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949'' and inserting in lieu thereof ''Director of the Office of Management and Budget on policies and regulations proposed pursuant section 124 of the Information Technology Management Reform Act of 1995'';

(C) in paragraph (3), by striking out ''section 111(d) of the Federal Property and Administrative Services Act of 1949'' and inserting in lieu thereof ''section 124 of the Information Technology Management Reform Act of 1995''; and

(D) in paragraph (4), by striking out ''Office of Personnel Management in developing regulations pertaining to training, as required by'' and inserting in lieu thereof ''Director of the Office of Management and Budget in carrying out the responsibilities regarding training regulations provided under''.

(3) AUTHORITY OF DIRECTOR OF OMB.—Such section is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection (d):

''(d) AUTHORITY OF DIRECTOR OF OMB.—The Director of the Office of Management and Budget may—

''(1) authorize the Director of the Institute to perform any of the functions and take any of the actions provided in subsections (a), (b), or (c), or limit, withdraw, or withhold such authority;

''(2) perform any of the functions and take any of the actions provided in subsections (a), (b), or (c); and

''(3) designate any other officer of the Federal Government in the executive branch to perform any of such functions and exercise any of such authorities.''.

(4) TERMINOLOGY.—Such section is further amended by striking out ''computer system'' each place it appears and inserting in lieu thereof ''information system''.

(5) DEFINITIONS.—Subsection (e) of such section, as redesignated by paragraph (3), is amended—

(A) in paragraph (1)(B)(v) by striking out ''Administrator of General Services pursuant to section 111 of the Federal Property and Administrative Services Act of 1949'' and inserting in lieu thereof ''Director of the Office of Management and Budget''; and

(B) in paragraph (2)(B), by striking out ''as that term is defined in section 111(a)(2) of the Federal Property and Administrative Services Act of 1949''.

(b) INFORMATION SYSTEM SECURITY AND PRIVACY ADVISORY BOARD.—

(1) ESTABLISHMENT.—Subsection (a) of section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–4) is amended—

(A) by striking out ''within the Department of Commerce'' in the first sentence and inserting in lieu thereof ''within the Office of the Chief Information Officer of the United States''; and

(B) by striking out ''Secretary of Commerce'' both places it appears and inserting in lieu thereof ''Director of the Office of Management and Budget''.

(2) RECIPIENTS OF ADVICE AND REPORTS FROM BOARD.—Subsection (b) of such section is amended—

(A) by striking out ''Institute and the Secretary of Commerce'' in paragraph (2) and inserting in lieu thereof ''Director of the Office of Management and Budget''; and

(B) by striking out ''the Secretary of Commerce,'' in paragraph (3).

(3) TERMINOLOGY.—Such section is further amended by striking out ''computer system'' each place it appears and inserting in lieu thereof ''information system''.

(4) DEFINITIONS.—Subsection (g) of such section is amended by striking out ''section 20(d)'' and inserting in lieu thereof ''section 20(e)''.

SEC. 182. RESPONSIBILITIES UNDER THE COMPUTER SECURITY ACT OF 1987.

(a) RESPONSIBILITY FOR TRAINING REGULATIONS.—Section 5(c) of the Computer Security Act of 1987 (Public Law 100–235; 101 Stat. 1729) is amended by striking out ''Within six months after the date of the enactment of this Act, the Director of the Office of Personnel Management'' and inserting in lieu thereof ''The Director of the Office of Management and Budget''.

(b) REPEAL OF EXECUTED PROVISION.—Section 5(b) of such Act is amended by striking out ''shall be started within 60 days after the issuance of the regulations described in subsection (c). Such training''.

TITLE II—PROCESS FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

Subtitle A—Procedures

SEC. 201. PROCUREMENT PROCEDURES.

(a) RESPONSIBILITY.—The Director of the Office of Management and Budget of the United States shall prescribe in regulations the procedures to be used in conducting information technology acquisitions. The procedures shall be made a part of the Federal Acquisition Regulation.

(b) STANDARDS FOR PROCEDURES.—The Director shall ensure that the process for acquisition of information technology is, in general, a simplified, clear, and understandable process that, for higher cost and higher risk acquisitions, provides progressively more stringent precautions for ensuring that there is full and open competition in an acquisition and that each acquisition timely and effectively satisfies the needs of the Federal Government.

(c) PERFORMANCE MEASUREMENTS.—The regulations shall include performance measurements and other performance requirements that the Director determines appropriate.

(d) USE OF COMMERCIAL ITEMS.—The regulations shall require the head of each executive agency to use, to the maximum extent practicable, commercial items to meet the information technology requirements of the executive agency.

(e) DIFFERENTIATED PROCEDURES AND REQUIREMENTS.—Subject to subsection (b), the Director shall prescribe different sets of procedures and requirements for acquisitions in each of the following categories of acquisitions:

(1) Acquisitions not in excess of $5,000,000.

(2) Acquisitions in excess of $5,000,000 and not in excess of $25,000,000.

(3) Acquisitions in excess of $25,000,000 and not in excess of $100,000,000.

(4) Acquisitions in excess of $100,000,000.

(5) Acquisitions considered as high-risk acquisitions.

(f) DIFFERENTIATION ON THE BASIS OF OTHER FACTORS.—In prescribing regulations under this title, the Director shall consider whether and, to the extent appropriate, how to differentiate in the treatment and conduct of acquisitions of information technology on any of the following additional bases:

(1) The information technology to be acquired, including such considerations as whether the item is a commercial item or an item being developed or modified uniquely for use by one or more executive agencies.

(2) The complexity of the information technology acquisition, including such considerations as size and scope.

(3) The level of risk (at levels other than high risk covered by procedures and requirements prescribed pursuant to subsection (e)), including technical and schedule risks.

(4) The level of experience or expertise of the critical personnel in the program office, mission unit, or office of the chief information officer of the executive agency concerned.

(5) The extent to which the information technology may be used Government wide or by several agencies.

(g) REQUIRED ACTIONS.—The regulations shall require the heads of executive agencies, in planning for and undertaking acquisitions of information technology, to apply sound methodologies and approaches that result in realistic and comprehensive advance assessments of risks, reasonable management of the risks, and maximization of the benefit derived by the Federal Government toward meeting the requirements for which the technology is acquired.

SEC. 202. AGENCY PROCESS.

(a) RESPONSIBILITY.—The head of each executive agency shall, consistent with the regulations prescribed under section 201, design and apply in the executive agency a process for maximizing the value and assessing and managing the risks of the information technology acquisitions of the agency.

(b) DESIGN OF PROCESS.—The process shall—

(1) provide for the selection, control, and evaluation of the results of information technology investments of the agency;

(2) be integrated with budget, financial, and program management decisions of the agency; and

(3) incorporate the procedures and satisfy the requirements, including procedures and requirements applicable under various threshold criteria, that are prescribed pursuant to section 201.

(c) BENEFIT AND RISK MEASUREMENTS.—

(1) REQUIREMENT.—The process shall provide for clearly identifying in advance of the acquisition quantifiable measurements for determining the net benefits and risks of each proposed information technology investment.

(2) EXAMPLES OF MEASURES.—(A) Measurements of net benefits could include such measures as cost reductions, decreases in program cycle time, return on investment, increases in productivity, enhanced capability, reductions in the paperwork burden imposed on the public, and improvements in the level of public satisfaction with services provided.

(B) Measures of risk could include such measures as project size and scope, project longevity, technical configurations, unusual security requirements, special project management skills, software complexity, system integration requirements, and existing technical and management expertise.

(d) EVALUATION OF VALUE OF PROPOSED INVESTMENTS.—The process shall require evaluation of the value of a proposed information technology investment to the performance of agency missions, including the provision of services to the public, on the basis of—

(1) the measurements applicable under subsection (c) as well as other applicable criteria and standards; and

(2) a comparison of that investment with other information technology investments proposed to be undertaken by or for the agency.

(e) PERIODIC REVIEW BY SENIOR MANAGERS.—

(1) IN GENERAL.—The process shall provide for senior managers of the executive agency—

(A) to review on a periodic basis the development, implementation, and operation of information technology investments undertaken or to be undertaken by the agency and the information technology acquired under such investments; and

(B) in the case of each investment, to make recommendations to the head of the executive agency regarding actions that should be taken in order to ensure that suitable progress is made toward achieving the goals established for the investment or that the investment, if not making suitable progress, is terminated in a timely manner.

(2) REVIEWS AFTER IMPLEMENTATION.—The implementation and operation reviews provided for under paragraph (1) shall include provisions for senior managers of the executive agency—

(A) upon the implementation of the investment, to evaluate the results of the investment in order to determine whether the benefits projected for the investment were achieved; and

(B) after operation of information systems under the investment begins, to conduct periodic reviews of the systems in order—

(i) to determine whether the benefits to mission performance resulting from the use of such systems are satisfactory; and

(ii) to identify opportunities for additional improvement in mission performance that can be derived from use of such systems.

(f) SPECIFIC ACQUISITION PROCEDURES.—In the awarding of contracts for the acquisition of information technology, the head of an executive agency shall consider the information on the past performance of offerors that is available from the Director of the Office of Management and Budget.

SEC. 203. INCREMENTAL ACQUISITION OF INFORMATION TECHNOLOGY.

(a) IN GENERAL.—The regulations prescribed under section 201 shall require that, to the maximum extent practicable, an executive agency's needs for information technology be satisfied in successive, incremental acquisitions of interoperable systems the characteristics of which comply with readily available standards and, therefore, can be connected to other systems that comply with such standards.

(b) DIVISION OF ACQUISITIONS INTO INCREMENTS.—Under the successive, incremental acquisition process, an extensive acquisition of information technology shall be divided into several smaller acquisition increments that—

(1) are easier to manage individually than would be one extensive acquisition;

(2) address complex information technology problems incrementally in order to enhance the likelihood of achieving workable solutions for those problems;

(3) provide for delivery, implementation, and testing of workable systems or solutions in discrete increments each of which comprises a system or solution that is not dependent on any other increment in order to be workable for the purposes for which acquired; and

(4) provide an opportunity for later increments of the acquisition to take advantage of any evolution in technology or needs that occurs during conduct of the earlier increments.

(c) TIMELY ACQUISITIONS.—

(1) AWARD OF CONTRACT.—If a contract for an increment of an information technology acquisition is not awarded within 180 days after the date on which the solicitation is issued, that increment of the acquisition shall be canceled. A subsequent solicitation for that increment of the solicitation, or for a revision of that increment, may be issued. A contract may be awarded on the basis of offers received in response to a subsequent solicitation.

(2) DELIVERY.—(A) The information technology provided for in a contract for acquisition of information technology shall be delivered within 18 months after the date on which the solicitation resulting in award of the contract was issued.

(B) The Chief Information Officer of the United States may waive the requirement under subparagraph (A) in the case of a particular contract. The Chief Information Officer shall notify Congress in writing of each waiver granted under this subparagraph.

(C) If the information technology to be acquired under a contract is not timely delivered as provided in subparagraph (A) and a waiver is not granted in such case, the contract shall be terminated and the contracting official concerned may issue a new solicitation that—

(i) provides for taking advantage of advances in information technology that have occurred during the 18-month period described in subparagraph (A) and advances in information technology that are anticipated to occur within the period necessary for completion of the acquisition; and

(ii) adjusts for any changes in identified mission requirements to be satisfied by the information technology.

(d) FULL-INCREMENT FUNDING FOR MAJOR AND HIGH-RISK ACQUISITIONS.—

(1) SUBMISSION OF PROGRAM INCREMENT DETAILS TO CONGRESS.—Before initial funding is made available for an information technology acquisition program that is in excess of $100,000,000, the head of the executive agency for which the program is carried out shall submit to Congress information about the objectives and plans for the conduct of that acquisition program and the funding requirements for each increment of the acquisition program. The information shall identify the intended user of the information technology items to be acquired under the program and each increment and shall include objective, quantifiable criteria for assessing the extent to which the objectives and goals established for the program are achieved.

(2) REQUIREMENT FOR FULL INCREMENT FUNDING.—(A) In authorizing appropriations for an increment of an information technology acquisition program, Congress shall provide an authorization of appropriations for the program increment in a single amount that is sufficient for carrying out that increment of the program. Each such authorization of appropriations shall be stated in the authorization law as a specific item.

(B) In each law making appropriations for an increment of information technology acquisition program, Congress shall specify the program increment for which an appropriation is made and the amount appropriated for that program increment.

(e) COMMERCIAL ITEMS.—

(1) SOURCE.—Except as provided in paragraph (2), a commercial item used in the development of an information system or otherwise being acquired for an executive agency shall be acquired through any of the following means available for the agency that can supply an item satisfying the needs of the agency for the acquisition:

(A) A multiple award schedule contract.

(B) A task or delivery order contract.

(C) A Federal Government on-line purchasing network established by the Chief Information Officer of the United States.

(2) EXCEPTION.—A commercial item need not be acquired from a source referred to in paragraph (1) if an item satisfying such needs is available at a lower cost from another source.

SEC. 204. AUTHORITY TO LIMIT NUMBER OF OFFERORS.

(a) CIVILIAN AGENCY ACQUISITIONS.—Section 303B(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(d)) is amended by adding at the end the following:

''(3) Under regulations prescribed by the Director of the Office of Management and Budget, a contracting officer of an executive agency receiving more than three competitive proposals for a proposed contract for acquisition of information technology may solicit best and final offers from the three offerors who submitted the best offers within the competitive range, as determined on the basis of the evaluation factors established for the procurement. Notwithstanding paragraph (1)(A), the contracting officer should first conduct discussions with all of the responsible parties that submit offers within the competitive range.''.

(b) ARMED SERVICES ACQUISITIONS.—Section 2305(b) of title 10, United States Code, is amended by adding at the end the following:

''(5) Under regulations prescribed by the Director of the Office of Management and Budget, a contracting officer of an agency receiving more than three competitive proposals for a proposed contract for acquisition of information technology may solicit best and final offers from the three offerors who submitted the best offers within the competitive range. Notwithstanding paragraph (4)(A)(i), the contracting officer should first conduct discussions with all of the responsible parties that submit offers within the competitive range.''.

SEC. 205. EXCEPTION FROM TRUTH IN NEGOTIATION REQUIREMENTS.

(a) CIVILIAN AGENCY ACQUISITIONS.—Section 304A of the Federal Property and Administrative Services Act of 1949 is amended—

(1) by redesignating subsection (i) as subsection (j) and, as so redesignated, is amended by adding at the end the following:

''(4) The term 'information technology' has the meaning given that term in section 4 of the Information Technology Management Reform Act of 1995.''; and

(2) by inserting after subsection (h) the following new subsection (i):

''(i) ADDITIONAL EXCEPTION FOR INFORMATION TECHNOLOGY COMMERCIAL ITEMS.—The head of an executive agency may not require the submission of cost or pricing data in a procurement of any information technology that is a commercial item. However, the head of the executive agency shall seek to obtain from each offeror or contractor the information described in subsection (d)(2)(A)(ii) for the procurement.''.

(b) ARMED SERVICES ACQUISITIONS.—Section 2306a of title 10, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (j) and, as so redesignated, is amended by adding at the end the following:

''(4) The term 'information technology' has the meaning given that term in section 4 of the Information Technology Management Reform Act of 1995.''; and

(2) by inserting after subsection (h) the following new subsection (i):

''(i) ADDITIONAL EXCEPTION FOR INFORMATION TECHNOLOGY COMMERCIAL ITEMS.—The head of an agency may not require the submission of cost or pricing data in a procurement of any information technology that is a commercial item. However, the head of an agency shall seek to obtain from each offeror or contractor the information described in subsection (d)(2)(A)(ii) for the procurement''.

SEC. 206. UNRESTRICTED COMPETITIVE PROCUREMENT OF COMMERCIAL OFF-THE-SHELF ITEMS OF INFORMATION TECHNOLOGY.

(a) FULL AND OPEN COMPETITION REQUIRED.—Full and open competition shall be used for each procurement of commercial off-the-shelf items of information technology by or for an executive agency.

(b) INAPPLICABILITY OF CERTAIN PROCUREMENT LAWS.—

(1) FAR LIST.—The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to contracts for the procurement of commercial, off-the-shelf items of information technology. A provision of law that is properly included on the list pursuant to paragraph (2) may not be construed as being applicable to such contracts. Nothing in this section shall be construed to render inapplicable to such contracts any provision of law that is not included on such list.

(2) PROVISIONS TO BE INCLUDED.—A provision of law described in subsection (c) shall be included on the list of inapplicable provisions of law required by paragraph (1) unless the Chief Information Officer of the United States, in consultation with the Federal Information Council, makes a written determination that it would not be in the best interest of the United States to exempt such contracts from the applicability of that provision of law.

(c) COVERED LAW.—The list referred to in subsection (b)(1) shall include each provision of law that, as determined by the Chief Information Officer, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government, except the following:

(1) A provision of this Act.

(2) A provision of law that is amended by this Act.

(3) A provision of law that is made applicable to procurements of commercial, off-the-shelf items of information technology by this Act.

(4) A provision of law that prohibits or limits the use of appropriated funds.

(5) A provision of law that specifically refers to this section and provides that, notwithstanding this section, such provision of law shall be applicable to contracts for the procurement of commercial off-the-shelf items of information technology.

(d) PETITION TO INCLUDE OMITTED PROVISION.—

(1) PETITION AUTHORIZED.—Any person may submit to the Chief Information Officer a petition to include on the list referred to in subsection (b)(1) a provision of law not included on that list.

(2) ACTION ON PETITION.—The Federal Acquisition Regulatory Council shall amend the Federal Acquisition Regulation to include the item on the list unless the Chief Information Officer, in consultation with the Federal Information Council—

(A) has made a written determination described in subsection (b)(2) with respect to that provision of law before receiving the request; or

(B) within 60 days after the date of receipt of the request, makes a such a written determination regarding the provision of law.

(e) DEFINITION.—In this subsection, the term ''commercial, off-the-shelf item of information technology'' means an item of information technology that—

(A) is a commercial item described in section 4(12)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 403);

(B) is sold in substantial quantities in the commercial marketplace; and

(C) is offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace.

SEC. 207. TASK AND DELIVERY ORDER CONTRACTS.

(a) CIVILIAN AGENCY ACQUISITIONS.—

(1) REQUIREMENT FOR MULTIPLE AWARDS.—Section 303H(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h(d)) is amended by adding at the end the following new paragraph:

''(4) In exercising the authority under this section for procurement of information technology, the head of an executive agency shall award at least two task or delivery order contracts for the same or similar information technology services or property unless the Chief Information Officer of the United States determines that, because of unusual circumstances, it is not in the best interests of the United States to award two such contracts.''.

(2) DEFINITION.—Section 303K of such Act (41 U.S.C. 253k) is amended by adding at the end the following new paragraph:

''(3) The term 'information technology' has the meaning given that term in section 4 of the Information Technology Management Reform Act of 1995.''.

(b) ARMED SERVICES ACQUISITIONS.—

(1) REQUIREMENT FOR MULTIPLE AWARDS.—Section 2304a(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(4) In exercising the authority under this section for procurement of information technology, the head of an executive agency shall award at least two task or delivery order contracts for the same or similar information technology services or property unless the Chief Information Officer of the United States determines that, because of unusual circumstances, it is not in the best interests of the United States to award two such contracts.''.

(2) DEFINITION.—Section 2304d of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(3) The term 'information technology' has the meaning given that term in section 4 of the Information Technology Management Reform Act of 1995.''.

SEC. 208. TWO-PHASE SELECTION PROCEDURES.

(a) CIVILIAN AGENCIES.—

(1) PROCEDURES AUTHORIZED.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303H the following new section:

''TWO-PHASE SELECTION PROCEDURES

''SEC. 303I. (a) PROCEDURES AUTHORIZED.—The head of an executive agency may use two-phase selection procedures for entering into a contract for the acquisition of information technology when the agency head determines that three or more offers will be received for such contract, substantial design work must be performed before an offeror can develop a reliable price or cost proposal for such contract, and the offerors will incur a substantial amount of expenses in preparing the offers.

''(b) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

''(1) The agency head solicits proposals that—

''(A) include information on the offerors'—

''(i) technical approach; and

''(ii) technical and management qualifications; and

''(B) do not include—

''(i) detailed design information; or

''(ii) cost or price information.

''(2) The agency head evaluates the proposals on the basis of evaluation criteria set forth in the solicitation, except that the agency head does not consider cost-related or price-related evaluation factors.

''(3) The agency head selects at least three offerors as the most highly qualified to provide the property or services under the contract and requests the selected offerors to submit competitive proposals that include cost and price information.

''(4) The agency head awards the contract in accordance with section 303B(d).

''(c) RESOURCE COMPARISON CRITERIA REQUIRED.—In using two-phase selection procedures for entering into a contract, the agency head shall establish resource criteria and financial criteria applicable to the contract in order to provide a consistent basis for comparing the offerors and their proposals.

''(d) TWO-PHASE SELECTION PROCEDURES DEFINED.—In this section, the term 'two-phase selection procedures' means procedures described in subsection (b) that are used for the selection of a contractor on the basis of cost and price and other evaluation criteria to provide property or services in accordance with the provisions of a contract which requires the contractor to design the property to be acquired under the contract and produce or construct such property.

''(e) DEFINITION.—In this section, the term 'information technology' has the meaning given the term in section 4 of the Information Technology Management Reform Act of 1995.''.

(2) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 303H the following new item:

''Sec. 303I. Two-phase selection procedures.''.

(b) DEPARTMENT OF DEFENSE.—

(1) PROCEDURES AUTHORIZED.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2305 the following new section:

''§ 2305a. Two-phase selection procedures

''(a) PROCEDURES AUTHORIZED.—The head of an agency may use two-phase selection procedures for entering into a contract for the acquisition of information technology when the head of the agency determines that three or more offers will be received for such contract, substantial design work must be performed before an offeror can develop a reliable price or cost proposal for such contract, and the offerors will incur a substantial amount of expenses in preparing the offers.

''(b) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

''(1) The head of the agency solicits proposals that—

''(A) include information on the offerors'—

''(i) technical approach; and

''(ii) technical and management qualifications; and

''(B) do not include—

''(i) detailed design information; and

''(ii) cost or price information.

''(2) The head of the agency evaluates the proposals on the basis of evaluation criteria set forth in the solicitation, except that the head of the agency does not consider cost-related or price-related evaluation factors.

''(3) The head of the agency selects at least three offerors as the most highly qualified to provide the property or services under the contract and requests the selected offerors to submit competitive proposals that include cost and price information.

''(4) The head of the agency awards the contract in accordance with section 2305(b)(4) of this title.

''(c) RESOURCE COMPARISON CRITERIA REQUIRED.—In using two-phase selection procedures for entering into a contract, the head of the agency shall establish resource criteria and financial criteria applicable to the contract in order to provide a consistent basis for comparing the offerors and their proposals.

''(d) TWO-PHASE SELECTION PROCEDURES DEFINED.—In this section, the term 'two-phase selection procedures' means procedures described in subsection (b) that are used for the selection of a contractor on the basis of cost and price and other evaluation criteria to provide property or services in accordance with the provisions of a contract which requires the contractor to design the property to be acquired under the contract and produce or construct such property.

''(e) DEFINITION.—In this section, the term 'information technology' has the meaning given the term in section 4 of the Information Technology Management Reform Act of 1995.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2305 the following:

''2305a. Two-phase selection procedures.''.

SEC. 209. CONTRACTOR SHARE OF GAINS AND LOSSES FROM COST, SCHEDULE, AND PERFORMANCE EXPERIENCE.

The Director of the Office of Management and Budget shall prescribe in regulations a clause, to be included in each cost-type or incentive-type contract for procurement of information technology for an executive agency, that provides a system for the contractor—

(1) to be rewarded for contract performance exceeding the contract cost, schedule, or performance goals to the benefit of the United States; and

(2) to be penalized for failing—

(A) to adhere to cost, schedule, or performance goals to the detriment of the United States; or

(B) to provide an operationally effective solution for the information technology problem covered by the contract.

Subtitle B—Acquisition Management

SEC. 221. ACQUISITION MANAGEMENT TEAM.

(a) IN GENERAL.—

(1) USE OF AGENCY PERSONNEL.—The head of each executive agency planning an acquisition of information technology shall determine whether agency personnel satisfying the requirements of subsection (b) are available and are to be used for carrying out the acquisition.

(2) USE OF OUTSIDE ACQUISITION TEAM.—If the head of the executive agency determines that such personnel are not available for carrying out the acquisition, the head of that agency shall consider designating a capable executive agent to carry out the acquisition.

(b) CAPABILITIES OF AGENCY PERSONNEL.—

(1) IN GENERAL.—The head of each executive agency shall ensure that the agency personnel involved in an acquisition of information technology have the experience, and have demonstrated the skills and knowledge, necessary to carry out the acquisition competently.

(2) HIGH-RISK INFORMATION TECHNOLOGY PROGRAM ACQUISITIONS.—For an acquisition under a high-risk information technology program—

(A) each of the members of the acquisition program management team (including the management, technical, program, procurement, and legal personnel) shall have experience and demonstrated competence in the team member's area of responsibility; and

(B) the team manager, deputy team manager, and each procurement official on the acquisition management team shall have demonstrated competence in participating in other major information system acquisitions or have other comparable experience.

(c) ACQUISITION WORKFORCE TRAINING.—The head of each executive agency shall ensure that agency personnel used for information technology acquisitions of the agency receive continuing training in management of information resources and the acquisition of information technology in order to maintain the competence of such personnel in the skills and knowledge necessary for carrying out such acquisitions successfully.

SEC. 222. OVERSIGHT OF ACQUISITIONS.

It is the sense of Congress that the Director of the Office of Management and Budget, the Chief Information Officer of the United States, the heads of executive agencies, and the inspectors general of executive agencies, in performing responsibilities for oversight of information technology acquisitions, should emphasize reviews of the operational justifications for the acquisitions, the results of the acquisition programs, and the performance measurements established for the information technology rather than reviews of the acquisition process.

TITLE III—SPECIAL FISCAL SUPPORT FOR INFORMATION INNOVATION

Subtitle A—Information Technology Fund

SEC. 301. ESTABLISHMENT.

There is established on the books of the Treasury a fund to be known as the ''Information Technology Fund''.

SEC. 302. ACCOUNTS.

The Information Technology Fund shall have two accounts as follows:

(1) The Innovation Loan Account.

(2) The Common Use Account.

Subtitle B—Innovation Loan Account

SEC. 321. AVAILABILITY OF FUND FOR LOANS IN SUPPORT OF INFORMATION INNOVATION.

Amounts in the Innovation Loan Account shall be available to the Director of the Office of Management and Budget, without fiscal year limitation, for lending to an executive agency for carrying out an information innovation program to improve the productivity of the agency.

SEC. 322. REPAYMENT OF LOANS.

(a) REPAYMENT REQUIRED.—The head of an executive agency shall repay the Innovation Loan Account the amount loaned to the executive agency.

(b) TERMS AND CONDITIONS.—The Director of the Office of Management and Budget shall prescribe the terms and conditions for repayment of the loan.

(c) REPAYMENT OUT OF SAVINGS.—The funds to be used by the head of an executive agency for repaying a loan shall be derived as provided in section 323 from savings realized by the agency through increases in the productivity of the agency that result from the information innovation funded (in whole or in part) by the loan. The Director shall prescribe guidelines for computing the amount of the savings.

SEC. 323. SAVINGS FROM INFORMATION INNOVATIONS.

(a) DISPOSITION OF SAVINGS.—Of the total amount saved by an executive agency in a fiscal year through increases in the productivity of the agency that result from information innovations funded (in whole or in part) by loans from the Innovation Loan Account 50 percent shall be credited to the Innovation Loan Account in repayment of loans to the agency from the Fund.

(b) EMPLOYEE INCENTIVES.—The head of an executive agency is authorized to pay monetary incentives to agency personnel who made significant contributions to the achievement of increases in agency productivity that resulted in the savings.

(c) COMPUTATION OF SAVINGS.—For purposes of this section, the amount saved by an executive agency in a fiscal year as a result of increases in the productivity of the agency that are attributable to information innovations funded (in whole or in part) by loans from the Innovation Loan Account shall be computed by the head of the agency in consultation with the chief information officer and chief financial officer of the agency and

in accordance with the guidelines prescribed pursuant to section 322(c).

SEC. 324. FUNDING.

(a) INITIAL CAPITALIZATION.—The head of each executive agency shall transfer to the Innovation Loan Account at the beginning of each fiscal year for fiscal years 1996 through 2000 the amount equal to 5 percent of the total amount available to that executive agency for such fiscal year for information resources, as determined by the Chief Information Officer of the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Innovation Loan Account, to be available without fiscal year limitation, such sums as may be necessary for making loans authorized by section 321.

Subtitle C—Common Use Account

SEC. 331. SUPPORT OF MULTIAGENCY ACQUISITIONS OF INFORMATION TECHNOLOGY.

(a) IN GENERAL.—Amounts in the Common Use Account shall be available to the Director of the Office of Management and Budget, without fiscal year limitation for the following purposes:

(1) Acquisitions of information technology to be used by two or more executive agencies.

(2) Expenses, including cost of personal services, incurred for developing and implementing information technology for support of two or more executive agencies.

(b) PROJECTS FUNDED.—The Director of the Office of Management and Budget shall select for funding out of the Common Use Account projects that are projected to meet the following requirements:

(1) Demonstrate the innovative use of information technology to reorganize and improve work processes or to integrate programs and link the information systems of executive agencies.

(2) Provide substantial benefits to the public, such as improved dissemination of information, increased timeliness in delivery of services, and increased quality of services.

(3) Substantially lower the operating costs of two or more executive agencies or programs.

(c) LIMITATION OF FUNDING.—Funding for a particular project shall ordinarily be limited to two fiscal years.

(d) ADDITIONAL REQUIREMENT FOR SELECTION.—In addition to meeting the requirements in subsection (b), the proposal for a project shall include a transition plan for proceeding from a pilot program or the initial stage of the project into operation of the information technology. The transition plan shall identify funding sources for the transition and for the sustainment of operations.

SEC. 332. FUNDING.

(a) INITIAL CAPITALIZATION.—

(1) TRANSFER OF FUNDS.—The initial capitalization of the Common Use Account shall be accomplished by transfer of funds under paragraph (2).

(2) AMOUNT AND SOURCE.—For purposes of paragraph (1), the Administrator of General Services shall transfer, out of the Information Technology Fund established by section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757), the amount equal to the excess of—

(A) the amount of the unobligated balance in that Fund, over

(B) the portion of that unobligated balance that the Administrator, with the approval of the Director of the Office of Management and Budget, determines is necessary to retain for meeting the requirements of the fund for the remainder of the fiscal year in which this Act takes effect under section 1001(a) and the next fiscal year.

(3) TERMINATION OF INFORMATION TECHNOLOGY FUND.—Effective at the end of the fiscal year immediately following the fiscal year in which this Act takes effect under section 1001(a)—

(A) section 110 of the Federal Property and Administrative Services Act (40 U.S.C. 757) is repealed; and

(B) the Information Technology Fund established by that section is terminated.

(b) CHARGES FOR COMMON INFRASTRUCTURE SERVICES.—The Director of the Office of Management and Budget may impose on executive agencies a charge for common infrastructure services to fund the Common Use Account.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Common Use Account, to be available without fiscal year limitation, such sums as may be necessary to fund multiagency acquisitions of information technology.

Subtitle D—Other Fiscal Policies

SEC. 341. LIMITATION ON USE OF FUNDS.

Funds available to an executive agency for information technology may not be expended for a proposed information technology acquisition until the head of the agency certifies in writing in the agency records of that acquisition that the head of the agency has completed a review of the agency's mission-related processes and administrative processes to be supported by the proposed investment in information technology and has established performance measurements for determining improvements in agency performance.

SEC. 342. SENSE OF CONGRESS.

It is the sense of Congress that executive agencies should achieve a 5 percent per year decrease in the cost incurred by the agency for operating and maintaining information technology, and a 5 percent per year increase in the efficiency of the agency operations, by reason of improvements in information resources management by the agency.

SEC. 343. REVIEW BY GAO AND INSPECTORS GENERAL.

(a) REVIEW REQUIRED.—During fiscal year 1996 and each of the first four fiscal years following that fiscal year, the Comptroller General of the United States and the Inspector General of each executive agency or (in the case of an executive agency that does not have an Inspector General) an appropriate audit agency shall, in coordination with each other, review the plans of the executive agency for acquisitions of information technology, the information technology acquisition programs being carried out by the executive agency, and the information resources management of the executive agency.

(b) PURPOSE OF REVIEWS.—The purpose of each of the reviews of an executive agency is to determine, for each of the agency's functional areas supported by information technology, the following:

(1) Whether the cost of operating and maintaining information technology for the agency has decreased below the cost incurred by the agency for operating and maintaining information technology for the agency for fiscal year 1995 by at least 5 percent (in constant fiscal year 1995 dollars) for each of five fiscal years.

(2) Whether, in terms of the applicable performance measurements established by the head of the executive agency, the efficiency of the operations of the agency has increased over the efficiency of the operations of the agency in fiscal year 1995 by at least 5 percent by reason of improvements in information resources management by the agency for each of five fiscal years.

TITLE IV—INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAMS

Subtitle A—Conduct of Pilot Programs

SEC. 401. REQUIREMENT TO CONDUCT PILOT PROGRAMS.

(a) IN GENERAL.—

(1) PURPOSE.—The Chief Information Officer of the United States shall conduct pilot programs in order to test alternative approaches for acquisition of information technology and other information resources by executive agencies.

(2) MULTIAGENCY, MULTI-ACTIVITY CONDUCT OF EACH PROGRAM.—Except as otherwise provided in this title, each pilot program conducted under this title shall be carried out in not more than two procuring activities in each of two executive agencies designated by the Chief Information Officer. The head of each designated executive agency shall, with the approval of the Chief Information Officer, select the procuring activities of the agency to participate in the test and shall designate a procurement testing official who shall be responsible for the conduct and evaluation of the pilot program within the agency.

(b) LIMITATIONS.—

(1) NUMBER.—Not more than five pilot programs shall be conducted under the authority of this title, including one pilot program each pursuant to the requirements of sections 421, 422, and 423, and two pilot programs pursuant to section 424.

(2) AMOUNT.—The total amount obligated for contracts entered into under the pilot programs conducted under the authority of this title may not exceed $1,500,000,000. The Chief Information Officer shall monitor such contracts and ensure that contracts are not entered into in violation of the limitation in the preceding sentence.

(c) INVOLVEMENT OF FEDERAL INFORMATION COUNCIL.—The Chief Information Officer may—

(1) conduct pilot programs recommended by the Federal Information Council; and

(2) consult with the Federal Information Council regarding development of pilot programs to be conducted under this section.

(d) PERIOD OF PROGRAMS.—

(1) IN GENERAL.—Subject to paragraph (2), the Chief Information Officer shall conduct a pilot program for the period, not in excess of five years, that is determined by the Chief Information Officer to be sufficient to establish reliable results.

(2) CONTINUING VALIDITY OF CONTRACTS.—A contract entered into under the pilot program before the expiration of that program shall remain in effect according to the terms of the contract after the expiration of the program.

SEC. 402. TESTS OF INNOVATIVE PROCUREMENT METHODS AND PROCEDURES.

(a) IN GENERAL.—The Chief Information Officer of the United States shall exercise the authority of the Administrator for Federal Procurement Policy under section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413) with regard to the acquisition of information technology and other information resources by executive agencies.

(b) RELATIONSHIP TO PILOT PROGRAM AUTHORITY.—The authority under paragraph (1) is in addition to the authority provided in this title to conduct pilot programs. A test program conducted under subsection (a), and each contract awarded under such test program, are not subject to the limitations on pilot programs provided in this title.

SEC. 403. EVALUATION CRITERIA AND PLANS.

(a) MEASURABLE TEST CRITERIA.—The Chief Information Officer of the United States shall require the head of each executive agency conducting a pilot program under section 401 or a test program under section

402 to establish, to the maximum extent practicable, measurable criteria for evaluating the effects of the procedures or techniques to be tested under the program.

(b) TEST PLAN.—Before a pilot program or a test program may be conducted under section 401 or 402, respectively, the Chief Information Officer shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a detailed test plan for the program, including a detailed description of the procedures to be used and a list of any regulations that are to be waived.

SEC. 404. REPORT.

(a) REQUIREMENT.—Not later than 180 days after the completion of a pilot program conducted under this title or a test program conducted under section 402, the Chief Information Officer of the United States shall—

(A) submit to the Director of the Office of Management and Budget a report on the results and findings under the program; and

(B) provide a copy of the report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

(b) CONTENT.—The report shall include the following:

(1) A detailed description of the results of the program, as measured by the criteria established for the program.

(2) A discussion of any legislation that the Chief Information Officer recommends, or changes in regulations that the Chief Information Officer considers necessary, in order to improve overall information resources management within the Federal Government.

SEC. 405. RECOMMENDED LEGISLATION.

If the Director of the Office of Management and Budget determines that the results and findings under a pilot program under this title indicate that legislation is necessary or desirable in order to improve the process for acquisition of information technology, the Director shall transmit the Director's recommendations for such legislation to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

SEC. 406. RULE OF CONSTRUCTION.

Nothing in this title shall be construed as authorizing the appropriation or obligation of funds for the pilot programs or test programs conducted pursuant to this title.

Subtitle B—Specific Pilot Programs

SEC. 421. SHARE-IN-SAVINGS PILOT PROGRAM.

(a) REQUIREMENT.—The Chief Information Officer of the United States shall carry out a pilot program to test the feasibility of—

(1) contracting on a competitive basis with a private sector source to provide the Federal Government with an information technology solution for improving mission-related or administrative processes of the Federal Government; and

(2) paying the private sector source an amount equal to a portion of the savings derived by the Federal Government from any improvements in mission-related processes and administrative processes that result from implementation of the solution, as determined by the Chief Information Officer.

(b) PROGRAM CONTRACTS.—Up to five contracts for one project each may be entered into under the pilot program.

(c) SELECTION OF PROJECTS.—The projects shall be selected by the Chief Information Officer from among projects recommended by the Federal Information Council.

SEC. 422. SOLUTIONS-BASED CONTRACTING PILOT PROGRAM.

(a) IN GENERAL.—The Chief Information Officer shall carry out a pilot program to test the feasibility of the use of solutions-based contracting for acquisition of information technology.

(b) SOLUTIONS-BASED CONTRACTING DEFINED.—For purposes of this section, solutions-based contracting is an acquisition method under which the Federal Government user of the technology to be acquired defines the acquisition objectives, uses a streamlined contractor selection process, and allows industry sources to provide solutions that attain the objectives effectively. The emphasis of the method is on obtaining from industry an optimal solution.

(c) PROCESS.—The Chief Information Officer shall require use of the following process for acquisitions under the pilot program:

(1) ACQUISITION PLAN EMPHASIZING DESIRED RESULT.—Preparation of an acquisition plan that defines the functional requirements of the intended users of the information technology to be acquired, identifies the operational improvement results to be achieved, and defines the performance measurements to be applied in determining whether the information technology acquired satisfies the defined requirements and attains the identified results.

(2) RESULTS-ORIENTED STATEMENT OF WORK.—Use of a statement of work that is limited to an expression of the end results or performance capabilities desired under the acquisition plan.

(3) SMALL ACQUISITION ORGANIZATION.—Assembly of small acquisition organization consisting of the following:

(A) An acquisition management team, the members of which are to be evaluated and rewarded under the pilot program for contributions toward attainment of the desired results identified in the acquisition plan.

(B) A small source selection team composed of representatives in the specific mission or administrative area to be supported by the information technology to be acquired, a contracting officer, and persons with relevant expertise.

(4) USE OF SOURCE SELECTION FACTORS EMPHASIZING SOURCE QUALIFICATIONS.—Use of source selection factors that are limited to determining the qualifications of the offeror, including such factors as personnel skills, previous experience in providing other private or public sector organizations with solutions for attaining objectives similar to the objectives to be attained in the acquisition, past contract performance, qualifications of the proposed program manager, and the proposed management plan.

(5) OPEN COMMUNICATIONS WITH CONTRACTOR COMMUNITY.—Open availability of the following information to potential offerors:

(A) The agency mission to be served by the acquisition.

(B) The functional process to be performed by use of information technology.

(C) The process improvements to be attained.

(6) SIMPLE SOLICITATION.—Use of a simple solicitation that sets forth only the functional work description, source selection factors, the required terms and conditions, instructions regarding submission of offers, and the estimate of the Federal Government's budget for the desired work.

(7) SIMPLE PROPOSALS.—Submission of oral proposals and acceptance of written supplemental submissions that are limited in size and scope and contain information on the offeror's qualifications to perform the desired work together with information of past contract performance.

(8) SIMPLE EVALUATION.—Use of a simple evaluation process, to be completed within 45 days after receipt of proposals, which consists of the following:

(A) Identification of the offerors that are within the competitive range of most of the qualified offerors.

(B) Issuance of invitations for at least three and not more than five of the identified offerors to make oral presentations to, and engage in discussions with, the evaluating personnel regarding the qualifications of the offerors, including how the qualifications of each offeror relate to the approaches proposed to be taken by the offeror in the acquisition.

(C) Evaluation of the qualifications of the identified offerors on the basis of submissions required under the process and any oral presentations made by, and any discussions with, the offerors.

(9) SELECTION OF MOST QUALIFIED OFFEROR.—A selection process consisting of the following:

(A) Identification of the most qualified source, and ranking of alternative sources, primarily on the basis of the oral proposals, presentations, and discussions, but taking into consideration supplemental written submissions.

(B) Conduct for 30 to 60 days of a program definition phase, funded by the Federal Government—

(i) during which the selected source, in consultation with one or more intended users, develops a conceptual system design and technical approach, defines logical phases for the project, and estimates the total cost and the cost for each phase; and

(ii) after which a contract for performance of the work may be awarded to that source on the basis of cost, the responsiveness, reasonableness, and quality of the proposed performance, and a sharing of risk and benefits between the source and the Government.

(C) Conduct of as many successive program definition phases with the alternative sources (in the order ranked) as is necessary in order to award a contract in accordance with subparagraph (B).

(10) SYSTEM IMPLEMENTATION PHASING.—System implementation to be executed in phases that are tailored to the solution, with various contract arrangements being used, as appropriate, for various phases and activities.

(11) MUTUAL AUTHORITY TO TERMINATE.—Authority for the Federal Government or the contractor to terminate the contract without penalty at the end of any phase defined for the project.

(12) TIME MANAGEMENT DISCIPLINE.—Application of a standard for awarding a contract within 60 to 90 days after issuance of the solicitation.

(d) PILOT PROGRAM DESIGN.—

(1) JOINT PUBLIC-PRIVATE WORKING GROUP.—The Chief Information Officer shall establish a joint working group of Federal Government personnel and representatives of the information technology industry to design a plan for conduct of the pilot program.

(2) CONTENT OF PLAN.—The plan shall provide for use of solutions-based contracting in the Department of Defense and not more than two other executive agencies for a total of—

(A) 10 projects, each of which has an estimated cost of between $25,000,000 and $100,000,000; and

(B) 10 projects, each of which has an estimated cost of between $1,000,000 and $5,000,000, to be set aside for small business concerns.

(3) COMPLEXITY OF PROJECTS.—(A) Subject to subparagraph (C), each acquisition project under the pilot program shall be sufficiently complex to provide for meaningful evaluation of the use of solutions-based contracting for acquisition of information technology for executive agencies.

(B) In order for an acquisition project to satisfy the requirement in subparagraph (A)—

(i) the solution for attainment of the executive agency's objectives under the project should not be obvious, but rather shall involve a need for some innovative development; and

(ii) the project shall incorporate all elements of system integration.

(C) An acquisition project should not be so extensive or lengthy as to result in undue delay in the evaluation of the use of solutions-based contracting.

(e) USE OF EXPERIENCED FEDERAL PERSONNEL.—Only Federal Government personnel who are experienced, and have demonstrated success, in managing or otherwise performing significant functions in complex acquisitions shall be used for evaluating offers, selecting sources, and carrying out the performance phases in an acquisition under the pilot program.

(f) MONITORING BY GAO.—

(1) REQUIREMENT.—The Comptroller General of the United States shall—

(A) monitor the conduct, and review the results, of acquisitions under the pilot program; and

(B) submit to Congress periodic reports containing the views of the Comptroller General on the activities, results, and findings under the pilot program.

(2) EXPIRATION OF REQUIREMENT.—The requirement under paragraph (1)(B) shall terminate after submission of the report that contains the final views of the Comptroller General on the last of the acquisition projects completed under the pilot program.

SEC. 423. PILOT PROGRAM FOR CONTRACTING FOR PERFORMANCE OF ACQUISITION FUNCTIONS.

(a) REQUIREMENT.—The Chief Information Officer of the United States shall carry out a pilot program which provides for the head of an executive agency, or an executive agent acting for the head of an executive agency, to contract for the performance of the contracting and program management functions for an information technology acquisition for the agency.

(b) PARTICIPATING AGENCIES.—The Chief Information Officer shall select five executive agencies to participate, with the consent of the head of the agency, in the pilot program.

(c) OBLIGATION OF FUNDS TO BE BY FEDERAL OFFICIALS.—Funds of the United States may not be obligated by a contractor in the performance of contracting or program management functions of an executive agency under the pilot program.

(d) GAO REVIEW AND ANALYSIS.—The Comptroller General of the United States shall—

(1) monitor and review the results of the pilot program;

(2) compare the use of contract personnel for performance of the contracting and program management functions for an information technology acquisition under the pilot program with the use of agency personnel to perform such functions; and

(3) submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight a report on the comparison, including any conclusions of the Comptroller General.

SEC. 424. MAJOR ACQUISITIONS PILOT PROGRAMS.

(a) FLEXIBLE ACQUISITIONS PILOT PROGRAMS.—The Chief Information Officer of the United States shall carry out two pilot programs, one in the Department of Defense and one in another executive agency, to test and demonstrate for use in major information technology acquisition programs flexible acquisition procedures that accommodate the following during the conduct of the acquisition:

(1) Continuous refinement of—

(A) the agency information architecture for which the information technology is being procured; and

(B) the requirements to be satisfied by such technology within that information architecture.

(2) Incremental development of system capabilities.

(3) Integration of new technology as it becomes available.

(4) Rapid fielding of effective systems.

(5) Completion of the operational increments of the acquisition within 18 months (subject to supplementation or further evolution of the agency information system through follow-on procurements).

(b) COVERED ACQUISITION PROGRAMS.—Each pilot program shall involve one acquisition of information technology that satisfies the following requirements:

(1) The acquisition is in an amount greater than $100,000,000, but the amount of the increments of the acquisition covered by the pilot program does not exceed $300,000,000.

(2) The information technology is to be procured for support of one or more agency processes or missions that have been, or are being, reevaluated and substantially revised to improve the efficiency with which the agency performs agency missions or delivers services.

(3) The acquisition is to be conducted as part of a sustained effort of the executive agency concerned to attain a planned overall information architecture for the agency that is designed to support improved performance of the agency missions and improved delivery of services.

(4) The acquisition program provides for an evolution of an information system that is guided by the overall information architecture planned for the agency.

(5) The acquisition is being conducted with a goal of completing two or more major increments in the evolution of the agency's information system within a 3-year period.

(c) WAIVER OF PROCUREMENT LAWS.—

(1) WAIVER AUTHORITY.—The head of an executive agency carrying out a pilot program under this section may, with the approval of the Chief Information Officer of the United States, waive any provision of procurement law referred to in paragraph (2) to the extent that the head of the agency considers necessary to carry out the pilot program in accordance with this section.

(2) COVERED PROCUREMENT LAWS.—The waiver authority under paragraph (1) applies to the following procurement laws:

(A) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

(B) Chapter 137 of title 10, United States Code.

(C) The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

(D) Sections 8, 9, and 15 of the Small Business Act (15 U.S.C. 637, 638, and 644).

(E) Any provision of law that, pursuant to section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430), is listed in the Federal Acquisition Regulation as being inapplicable—

(i) to contracts for the procurement of commercial items; or

(ii) in the case of a subcontract under the pilot program, to subcontracts for the procurement of commercial items.

(F) Any other provision of law that imposes requirements, restrictions, limitations, or conditions on Federal Government contracting (other than a limitation on use of appropriated funds), as determined by the Chief Information Officer of the United States.

(d) OMB INVOLVEMENT.—

(1) IN GENERAL.—The Chief Information Officer of the United States shall closely and continuously monitor the conduct of the pilot programs carried out under this section.

(2) ASSIGNMENT OF OMB PERSONNEL TO PROGRAM TEAM.—In order to carry out paragraph (1) effectively, the Chief Information Officer of the United States shall assign one or more representatives to the acquisition program management team for each pilot program.

(e) TERMINATION OF PILOT PROGRAM FOR UNSATISFACTORY PERFORMANCE.—The Chief Information Officer of the United States shall terminate a pilot program under this section at any time that the Chief Information Officer determines that the acquisition under the program has failed to a significant extent to satisfy cost, schedule, and performance requirements established for the acquisition.

(f) REPORTS TO CONGRESS.—

(1) REQUIREMENT.—The Director of the Office of Management and Budget shall submit to Congress reports on each pilot program carried out under this section as follows:

(A) An interim report upon the completion of each increment of the acquisition under the pilot program.

(B) A final report upon completion of the pilot program.

(2) CONTENT OF FINAL REPORT.—The final report on a pilot program shall include any recommendations for waiver of the applicability of procurement laws to further evolution of information systems acquired under the pilot program.

TITLE V—OTHER INFORMATION RESOURCES MANAGEMENT REFORMS

SEC. 501. TRANSFER OF RESPONSIBILITY FOR FACNET.

Section 30 of the Office of Federal Procurement Policy Act (41 U.S.C. 426) is amended—

(1) in subsection (a), by striking out ''Administrator'' the first place it appears inserting in lieu thereof ''Chief Information Officer of the United States''; and

(2) by striking out ''Administrator'' each place it appears and inserting in lieu thereof ''Chief Information Officer''.

SEC. 502. ON-LINE MULTIPLE AWARD SCHEDULE ORDERING.

(a) DEVELOPMENT AND IMPLEMENTATION OF SYSTEM DESIGNS.—In order to provide for the economic and efficient procurement of commercial information technology, the Chief Information Officer of the United States shall establish competing programs for the development and testing of up to three system designs for providing for Government-wide, on-line computer purchasing of commercial items of information technology.

(b) REQUIRED SYSTEM CAPABILITIES.—Each of the system designs shall be established as an element of the Federal acquisition computer network (FACNET) architecture and shall, at a minimum—

(1) provide basic information on the prices, features, and performance of all commercial items of information technology available for purchasing;

(2) provide for updating that information to reflect changes in prices, features, and performance as soon as information on the changes becomes available;

(3) enable users to make on-line computer comparisons of the prices, features, and performance of similar products and services offered by various vendors;

(4) enable users to place, and vendors to receive, on-line computer orders for products and services available for purchasing;

(5) enable ordering users to make payments to vendors by bank card, electronic funds transfer, or other automated methods in cases in which it is practicable and in the interest of the Federal Government to do so; and

(6) archive data relating to each order placed against multiple award schedule contracts using such system, including, at a minimum, data on—

(A) the agency or office placing the order;

(B) the vendor receiving the order;

(C) the products or services ordered; and

(D) the total price of the order.

(c) USE OF SYSTEMS.—Under guidelines and procedures prescribed pursuant to subsection (d), the head of an executive agency may use a system developed and tested under this section to make purchases in a total amount of not more than $5,000,000 for each order.

(d) GUIDELINES AND PROCEDURES.—The Chief Information Officer shall prescribe guidelines and procedures for making purchases authorized by subsection (c). The guidelines and procedures shall ensure that orders placed on the system referred to in that subsection do not place any requirements on vendors that are not customary for transactions involving sales of the purchased commodities to private sector purchasers.

(e) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Chief Information Officer shall submit to Congress a report on the Chief Information Officer's decision on implementation of an electronic marketplace for information technology. The report shall contain a description of the results of the programs established under subsection (a).

SEC. 503. UPGRADING INFORMATION EQUIPMENT IN AGENCY FIELD OFFICES.

(a) AUTHORITY TO USE MICRO-PURCHASE PROCEDURES.—Under the authority, direction, and control of the head of an executive agency and subject to subsection (b), the head of a field office of that agency may use micro-purchase procedures to procure up to $20,000 of upgrades for the computer equipment of that office each year in increments not exceeding $2,500 each. Procurements within that limitation shall not be counted against the $20,000 annual limitation provided under section 32(c)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(c)(2)).

(b) CERTIFICATION REQUIREMENT.—The head of a field office may procure an upgrade for computer equipment in accordance with subsection (a) only if the head of the field office determines in writing that the cost of the upgrade does not exceed 50 percent of the cost of purchasing replacement equipment for the equipment to be upgraded. The head of the field office shall include a written record of the determination in the agency records of the procurement.

(c) MICRO-PURCHASE PROCEDURES DEFINED.—In this section, the term ''micro-purchase procedures'' means the procedures prescribed under section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) for purchases not in excess of the micro-purchase threshold (as defined in that section).

SEC. 504. DISPOSAL OF EXCESS COMPUTER EQUIPMENT.

(a) AUTHORITY TO DONATE.—The head of an executive agency may, without regard to the procedures otherwise applicable under title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.), convey without consideration all right, title, and interest of the United States in any computer equipment under the control of such official that is determined under title II of such Act as being excess property or surplus property to a recipient in the following order of priority:

(1) Elementary and secondary schools under the jurisdiction of a local educational agency and schools funded by the Bureau of Indian Affairs.

(2) Public libraries.

(3) Public colleges and universities.

(b) INVENTORY REQUIRED.—Upon the enactment of this Act, the head of an executive agency shall inventory all computer equipment under the control of that official and identify in accordance with title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) the equipment, if any, that is excess property or surplus property.

(c) DEFINITIONS.—In this section:

(1) The terms ''excess property'' and ''surplus property'' have the meanings given such terms in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(2) The terms ''local educational agency'', ''elementary school'', and ''secondary school'' have the meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

SEC. 505. LEASING INFORMATION TECHNOLOGY.

(a) ANALYSIS BY GAO.—The Comptroller General of the United States shall perform a comparative analysis of—

(1) the costs and benefits of purchasing new information technology for executive agencies;

(2) the costs and benefits of leasing new information technology for executive agencies;

(3) the costs and benefits of leasing used information technology for executive agencies; and

(4) the costs and benefits of purchasing used information technology.

(b) LEASING GUIDELINES.—Based on the analysis, the Comptroller General shall develop recommended guidelines for leasing information technology for executive agencies.

SEC. 506. CONTINUATION OF ELIGIBILITY OF CONTRACTOR FOR AWARD OF INFORMATION TECHNOLOGY CONTRACT AFTER PROVIDING DESIGN AND ENGINEERING SERVICES.

Notwithstanding any other provision of law, a contractor that provides architectural design and engineering services for an information system under an information technology program of an executive agency is not, solely by reason of having provided such services, ineligible for award of a contract for procurement of information technology under that program or for a subcontract under such a contract.

SEC. 507. ENHANCED PERFORMANCE INCENTIVES FOR INFORMATION TECHNOLOGY ACQUISITION WORKFORCE.

(a) ARMED SERVICES ACQUISITIONS.—

(1) CLARIFICATION OF REQUIREMENTS FOR SYSTEM OF INCENTIVES.—Subsection (b) of section 5001 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat. 3350; 10 U.S.C. 2220 note) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by designating the second sentence as paragraph (2);

(C) by inserting ''(1)'' after ''(b) ENHANCED SYSTEM OF PERFORMANCE INCENTIVES.—''; and

(D) by adding at the end the following:

''(3) The Secretary shall include in the enhanced system of incentives, to the extent that the system applies with respect to programs for the acquisition of information technology (as defined in section 4 of the Information Technology Management Reform Act of 1995), the following:

''(A) Pay bands.

''(B) Significant and material pay and performance incentives to be awarded, and significant and material unfavorable personnel actions to be imposed, under the system exclusively, or primarily, on the basis of the contributions of personnel to the performance of the information technology acquisition program in relation to cost goals, performance goals, and schedule goals.

''(C) Provisions for pay incentives and performance incentives to be awarded under the system only if—

''(i) the cost of the information technology acquisition program is less than 90 percent of the baseline established for the cost of the program;

''(ii) the period for completion of the information technology program is less than 90 percent of the period provided under the baseline established for the program schedule; and

''(iii) the results of the phase of the information technology program being executed exceed the performance baselines established for the system by more than 10 percent.

''(D) Provisions for unfavorable personnel actions to be taken under the system only if the information technology acquisition program performance for the phase being executed exceeds by more than 10 percent the cost and schedule parameters established for the program phase and the performance of the system acquired or to be acquired under the program fails to achieve at lease 90 percent of the baseline goals established for performance of the program.''.

(2) RECOMMENDED LEGISLATION.—Subsection (c) of such section is amended by adding at the end the following: ''The Secretary shall include in the recommendations provisions necessary to implement the requirements of subsection (b)(3).''.

(3) IMPLEMENTATION OF INCENTIVES SYSTEM.—Section 5001 of the Federal Acquisition Streamlining Act of 1994 is further amended by adding at the end the following:

''(d) IMPLEMENTATION OF INCENTIVES SYSTEM.—(1) The Secretary shall complete the review required by subsection (b) and take such actions as are necessary to provide an enhanced system of incentives in accordance with such subsection not later than October 1, 1997.

''(2) Not later than October 1, 1996, the Secretary shall submit to the Committees on Armed Services and on Governmental Affairs of the Senate and the Committees on National Security and on Government Reform and Oversight of the House of Representatives a report on the actions taken to satisfy the requirements of paragraph (1).''.

(b) CIVILIAN AGENCY ACQUISITIONS.—

(1) CLARIFICATION OF REQUIREMENTS FOR SYSTEM OF INCENTIVES.—Subsection (b) of section 5051 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat. 3351; 41 U.S.C. 263 note) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by designating the second sentence as paragraph (2);

(C) by inserting ''(1)'' after ''(b) ENHANCED SYSTEM OF PERFORMANCE INCENTIVES.—''; and

(D) by adding at the end the following:

''(3) The Deputy Director shall include in the enhanced system of incentives, to the extent that the system applies with respect to programs for the acquisition of information technology (as defined in section 4 of the Information Technology Management Act of 1995), the following:

''(A) Pay bands.

''(B) Significant and material pay and performance incentives to be awarded, and significant and material unfavorable personnel actions to be imposed, under the system exclusively, or primarily, on the basis of the contributions of personnel to the performance of the information technology acquisition program in relation to cost goals, performance goals, and schedule goals.

''(C) Provisions for pay incentives and performance incentives to be awarded under the system only if—

''(i) the cost of the information technology acquisition program is less than 90 percent of

the amount established as the cost goal for the program under section 313 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 263);

''(ii) the period for completion of the program is less than 90 percent of the period established as the schedule goal for the program under such section; and

''(iii) the results of the phase of the program being executed exceed the performance goal established for the program under such section by more than 10 percent.

''(D) Provisions for unfavorable personnel actions to be taken under the system only if the information technology acquisition program performance for the phase being executed exceeds by more than 10 percent the cost and schedule goals established for the program phase under section 313 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 263) and the performance of the system acquired or to be acquired under the program fails to achieve at lease 90 percent of the performance goal established for the program under such section.''.

(2) RECOMMENDED LEGISLATION.—Subsection (c) of such section is amended by adding at the end the following: ''The Deputy Director shall include in the recommendations provisions necessary to implement the requirements of subsection (b)(3).''.

(3) IMPLEMENTATION OF INCENTIVES SYSTEM.—Section 5051 of the Federal Acquisition Streamlining Act of 1994 is further amended by adding at the end the following:

''(d) IMPLEMENTATION OF INCENTIVES SYSTEM.—(1) The Deputy Director shall complete the review required by subsection (b) and take such actions as are necessary to provide an enhanced system of incentives in accordance with such subsection not later than October 1, 1997.

''(2) Not later than October 1, 1996, the Deputy Director shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a report on the actions taken to satisfy the requirements of paragraph (1).''.

TITLE VI—ACTIONS REGARDING CURRENT INFORMATION TECHNOLOGY PROGRAMS

SEC. 601. PERFORMANCE MEASUREMENTS.

(a) IMPLEMENTATION OF REQUIREMENT FOR PERFORMANCE MEASUREMENTS.—The chief information officer of an executive agency shall ensure that performance measurements are prescribed for each significant current information technology acquisition program of the agency.

(b) QUALITY OF MEASUREMENTS.—The performance measurements shall be sufficient to provide—

(1) the head of the executive agency with adequate information for making determinations for purposes of subsections (b)(2) and (c)(2) of section 146; and

(2) the Director of the Office of Management and Budget with adequate information for making determinations for purposes of paragraphs (1)(B) and (2)(B) of section 123(g).

SEC. 602. INDEPENDENT ASSESSMENT OF PROGRAMS.

(a) ASSESSMENT REQUIRED.—The head of each executive agency shall provide for an assessment to be made of each of the current information technology acquisition programs of the agency that exceed $100,000,000.

(b) INDEPENDENCE OF ASSESSMENT.—The head of the executive agency shall provide for the assessment to be carried out by the Inspector General of the agency (in the case of an agency having an Inspector General), a contractor, or another entity who is independent of the head of the executive agency.

(c) PURPOSES.—The purposes of the assessment of a program are to determine the following:

(1) To determine the status of the program in terms of performance objectives and cost and schedule baselines.

(2) To identify any need or opportunity for improving the process to be supported by the program.

(3) To determine the potential for use of the information technology by other executive agencies on a shared basis or otherwise.

(4) To determine the adequacy of the program plan, the architecture of the information technology being acquired, and the program management.

SEC. 603. CURRENT INFORMATION TECHNOLOGY ACQUISITION PROGRAM DEFINED.

For purposes of this title, a current information technology acquisition program is—

(1) an information technology acquisition program being carried out on the date of the enactment of this Act; and

(2) any other information technology acquisition program that is carried out through any contract entered into on the basis of offers received in response to a solicitation of offers issued before such date.

TITLE VII—PROCUREMENT PROTEST AUTHORITY OF THE COMPTROLLER GENERAL

SEC. 701. REMEDIES.

Section 3554(b) of title 31, United States Code, is amended by adding at the end the following:

''(4) If the Comptroller General makes a determination described in paragraph (1) in the case of a protest in a procurement of information technology, the Comptroller General may submit to the Chief Information Officer of the United States a recommendation to suspend the procurement authority of a Federal agency for the protested procurement.''.

SEC. 702. PERIOD FOR PROCESSING PROTESTS.

Section 3554(a) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking out ''paragraph (2)'' in the second sentence and inserting in lieu thereof ''paragraphs (2) and (5)''; and

(2) by adding at the end the following:

''(5)(A) The requirements and restrictions set forth in this paragraph apply in the case of a protest in a procurement of information technology.

''(B) The Comptroller General shall issue a final decision concerning a protest referred to in subparagraph (A) within 45 days after the date the protest is submitted to the Comptroller General.

''(C) The disposition under this subchapter of a protest in a procurement referred to in subparagraph (A) bars any further protest under this subchapter by the same interested party on the same procurement.''.

SEC. 703. DEFINITION.

Section 3551 of title 31, United States Code, is amended by adding at the end the following:

''(4) The term 'information technology' has the meaning given that term in section 4 of the Information Technology Management Reform Act of 1995.''.

TITLE VIII—RELATED TERMINATIONS, CONFORMING AMENDMENTS, AND CLERICAL AMENDMENTS

Subtitle A—Related Terminations

SEC. 801. OFFICE OF INFORMATION AND REGULATORY AFFAIRS.

The Office of Information and Regulatory Affairs in the Office of Management and Budget is terminated.

SEC. 802. SENIOR INFORMATION RESOURCES MANAGEMENT OFFICIALS.

In each executive agency for which a chief information officer is designated under section 143(a), the designation of a senior information resources management official under section 3506(a)(2) of title 44, United States Code, is terminated.

Subtitle B—Conforming Amendments

SEC. 811. AMENDMENTS TO TITLE 10, UNITED STATES CODE.

(a) MULTIYEAR CONTRACTS.—Section 2306b(k) of title 10, United States Code, is amended by striking out ''property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies'' and inserting in lieu thereof ''information technology (as defined in section 4 of the Information Technology Management Reform Act of 1995''.

(b) SENSITIVE DEFENSE ACTIVITIES.—Section 2315 of such title is repealed.

SEC. 812. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

Section 612 of title 28, United States Code, is amended—

(1) in subsection (f), by striking out ''section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759)'' and inserting in lieu thereof ''the provisions of law, policies, and regulations applicable to executive agencies under the Information Technology Management Reform Act of 1995'';

(2) in subsection (g), by striking out ''sections 111 and 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 and 759)'' and inserting in lieu thereof ''section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481)'';

(3) by striking out subsection (l); and

(4) by redesignating subsection (m) as subsection (l).

SEC. 813. AMENDMENTS TO TITLE 31, UNITED STATES CODE.

(a) AVAILABILITY OF FUNDS FOLLOWING RESOLUTION OF A PROTEST.—Section 1558(b) of title 31, United States Code, is amended by striking out ''or under section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f))''.

(b) GAO PROCUREMENT PROTEST SYSTEM.—Section 3552 of such title is amended by striking out the second sentence.

SEC. 814. AMENDMENTS TO TITLE 38, UNITED STATES CODE.

Section 310 of title 38, United States Code,is amended to read as follows:

''§ 310. Chief information officer

''(a) The Secretary shall designate a chief information officer for the Department in accordance with section 143(a) of the Information Technology Management Reform Act of 1995.

''(b) The chief information officer shall perform the duties provided for chief information officers of executive agencies under the Information Technology Management Reform Act of 1995.''.

SEC. 815. PROVISIONS OF TITLE 44, UNITED STATES CODE, AND OTHER LAWS RELATING TO CERTAIN JOINT COMMITTEES OF CONGRESS.

(a) JOINT COMMITTEE ON INFORMATION.—

(1) REPLACEMENT OF JOINT COMMITTEE ON PRINTING.—Chapter 1 of title 44, United States Code, is amended by striking out the chapter heading and all that follows through the heading for section 103 and inserting in lieu thereof the following:

''CHAPTER 1—JOINT COMMITTEE ON INFORMATION

''Sec.
''101. Joint Committee on Information.
''102. Remedial powers.

''§ 101. Joint Committee on Information

''There is a Joint Committee on Information established by section 101 of the Information Technology Management Reform Act of 1995.

"§ 102. Remedial powers".

(2) REFERENCES TO JOINT COMMITTEE.—The provisions of title 44, United States Code, are amended by striking out ''Joint Committee on Printing'' each place it appears and inserting in lieu thereof ''Joint Committee on Information''.

(b) REFERENCES TO JOINT COMMITTEE OF CONGRESS ON THE LIBRARY.—

(1) MISCELLANEOUS REFERENCES.—Section 82 of the Revised Statutes (2 U.S.C. 132a), section 203(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 166(i)), section 1831 of the Revised Statutes (40 U.S.C. 188), and section 801(b)(2) of Public Law 100–696 (102 Stat. 4608; 40 U.S.C. 188a(b)(2)) are amended by striking out ''Joint Committee of Congress on the Library'' and inserting in lieu thereof ''Joint Committee on Information''.

(2) SUPERSEDED PROVISION.—Section 223 of the Legislative Reorganization Act of 1946 (2 U.S.C. 132b) is repealed.

(3) CONTINUATION OF AUTHORITY.—Section 2 of the Act of March 3, 1883 (22 Stat. 587) is amended under the heading ''SENATE.'' by striking out the undesignated paragraph relating to the exercise of powers and discharge of duties of the Joint Committee of Congress upon the Library by the Senate members of the joint committee during the recess of Congress (22 Stat. 592; 2 U.S.C. 133).

(c) OTHER REFERENCES.—A reference to a joint committee of Congress terminated by section 102(d) in any law or in any document of the Federal Government shall be deemed to refer to the Joint Committee on Information established by section 101.

SEC. 816. PROVISIONS OF TITLE 44, UNITED STATES CODE, RELATING TO PAPERWORK REDUCTION.

(a) DEFINITION.—Section 3502 of title 44, United States Code, is amended by striking out paragraph (9) and inserting in lieu thereof the following:

''(9) the term 'information technology' has the meaning given that term in section 4 of the Information Technology Management Reform Act of 1995;''.

(b) OFFICE OF INFORMATION AND REGULATORY AFFAIRS.—Chapter 35 of such title is amended—

(1) by striking out section 3503 and inserting in lieu thereof the following:

"§ 3503. Chief Information Officer of the United States

''The Director of the Office of Management and Budget shall delegate to the Chief Information Officer of the United States the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions.''; and

(2) by striking out section 3520.

(c) DEVELOPMENT OF STANDARDS AND GUIDELINES BY NIST.—Section 3504(h)(1)(B) of such title is amended by striking out ''section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d))'' and inserting in lieu thereof ''paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (20 U.S.C. 278g–3(a))''.

(d) COMPLIANCE WITH DIRECTIVES.—Section 3504(h)(2) of such title is amended by striking out ''sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759)'' and inserting in lieu thereof ''the Information Technology Management Reform Act of 1995 and directives issued under section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757)''.

(e) SENIOR INFORMATION RESOURCES MANAGEMENT OFFICIALS.—Section 3506(a)(2) of such title is amended—

(1) in subparagraph (A), by striking out ''subparagraph (B)'' and inserting in lieu thereof ''subparagraphs (B) and (C)''; and

(2) by adding at the end the following:

''(C) An agency for which a chief information officer is designated under section 143(a) of the Information Technology Management Reform Act of 1995 may not designate a senior official under this paragraph.''.

SEC. 817. AMENDMENT TO TITLE 49, UNITED STATES CODE.

Section 40112(a) of title 49, United States Code, is amended by striking out ''or a contract to purchase property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies''.

SEC. 818. OTHER LAWS.

(a) COMPUTER SECURITY ACT OF 1987.—Section 2(b)(2) of the Computer Security Act of 1987 (Public Law 100–235; 101 Stat. 1724) is amended by striking out ''by amending section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d))''.

(b) PUBLIC LAW 101–520.—Section 306(b) of Public Law 101–520 (40 U.S.C. 166 note) is amended by striking out paragraph (1) and inserting in lieu thereof the following:

''(1) the Information Technology Management Reform Act of 1995; and''.

(c) NATIONAL ENERGY CONSERVATION POLICY ACT.—Section 801(b)(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287(b)(3)) is amended by striking out the second sentence.

(d) NATIONAL SECURITY ACT OF 1947.—Section 3 of the National Security Act of 1947 (50 U.S.C. 403c) is amended by striking out subsection (e).

Subtitle B—Clerical Amendments

SEC. 821. AMENDMENT TO TITLE 10, UNITED STATES CODE.

The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended by striking out the item relating to section 2315.

SEC. 822. AMENDMENT TO TITLE 38, UNITED STATES CODE.

The table of sections at the beginning of chapter 3 of title 38, United States Code, is amended by striking out the item relating to section 310 and inserting in lieu thereof the following:

''310. Chief information officer.''.

SEC. 823. AMENDMENTS TO TITLE 44, UNITED STATES CODE.

(a) CHAPTER 1.—The item relating to chapter 1 in the table of chapters at the beginning of title 44, United States Code, is amended to read as follows:

"1. Joint Committee on Information .. 101".

(b) CHAPTER 35.—The table of sections at the beginning of chapter 35 of such title is amended—

(1) by striking out the item relating to section 3503 and inserting in lieu thereof the following:

''3503. Chief Information Officer of the United States.'';

and

(2) by striking out the item relating to section 3520.

TITLE IX—SAVINGS PROVISIONS

SEC. 901. SAVINGS PROVISIONS.

(a) REGULATIONS, INSTRUMENTS, RIGHTS, AND PRIVILEGES.—All rules, regulations, contracts, orders, determinations, permits, certificates, licenses, grants, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the Administrator of General Services or the General Services Administration Board of Contract Appeals, or by a court of competent jurisdiction, in connection with an acquisition activity carried out under the section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), and

(2) which are in effect on the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Director of the Office of Management and Budget, the Chief Information Officer of the United States, any other authorized official, by a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS AND APPLICATIONS.—

(1) TRANSFERS OF FUNCTIONS NOT TO AFFECT PROCEEDINGS.—This Act and the amendments made by this Act shall not affect any proceeding, including any proceeding involving a claim or application, in connection with an acquisition activity carried out under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) that is pending before the Administrator of General Services or the General Services Administration Board of Contract Appeals on the effective date of this Act.

(2) ORDERS IN PROCEEDINGS.—Orders may be issued in any such proceeding, appeals may be taken therefrom, and payments may be made pursuant to such orders, as if this Act had not been enacted. An order issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by the Director of the Office of Management and Budget, the Chief Information Officer of the United States, or any other authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION OF PROCEEDINGS NOT PROHIBITED.—Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(4) REGULATIONS FOR TRANSFER OF PROCEEDINGS.—The Director of the Office of Management and Budget may prescribe regulations providing for the orderly transfer of proceedings continued under paragraph (1).

TITLE X—EFFECTIVE DATES

SEC. 1001. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect one year after the date of the enactment of this Act.

(b) TITLE VI.—Title VI shall take effect on the date of the enactment of this Act.

SYNOPSIS OF THE INFORMATION TECHNOLOGY MANAGEMENT REFORM ACT

The Act reflects the growing importance that information resources management plays in contributing to efficient government operations and provides more appropriate procedures for the procurement of information technology given today's realities. The Act places focus on the management of information technology as well as the processes supported by that technology, rather than simply on the procedures and process used to acquire information technology. Key features of this bill include the establishment of a national Chief Information Officer (CIO) within the Office of Management and Budget, creation of CIOs within each executive agency; simplification of the acquisition process; and emphasis on improving mission-related and administrative processes before acquiring information technology or automation. There are 10 titles to the bill which are summarized below.

Title I (Responsibility for Acquisition of Information Technology) contains Subtitle A (General Authority) repeals the Brooks Act and provides the heads of executive

agencies with direct authority to procure information technology. This authority is subject to the direction and control of the Director of the Office of Management and Budget (OMB).

Subtitle B (Director of the Office of Management and Budget) assigns responsibility for the efficient use and acquisition of information resources by the executive agencies to the Director of OMB. The Director is to act through the CIO defined in Subtitle C of this title.

The Director is responsible for maximizing the productivity, efficiency, effectiveness of information resources in the government, and for establishing policies and guidelines related to improving the performance of information resources functions and activities; investing in and acquiring information resources; and reviewing and revising (reengineering) mission-related and administrative processes. Concise, simple regulations to implement the above requirements and other provisions of the Act should be made part of the Federal Acquisition Regulations. The Director is responsible for reviewing overall agency information resources management performance and for establishing information technology standards for the government with the exception of those information system security requirements required by the Department of Defense and Central Intelligence Agency which shall be developed by the Department of Defense and Central Intelligence Agency.

The Director of OMB has the authority and responsibility and is required to terminate any high risk information technology program or program phase or increment that exceeds its established goals for cost or schedule by 50 percent or does not achieve at least 50 percent of its performance goals; and requires the Director to consider terminating any high risk information technology program or program phase or increment that exceeds its established goals for cost or schedule by 10 percent or does not achieve at least 90 percent of its performance goals.

Subtite C (Chief Information Office of the United States) establishes the Office of the CIO within OMB. The CIO is appointed by the President, at Executive Level II, with Senate confirmation. The CIO is the principal advisor to the Director of OMB on matters of information resources management, and is delegated the responsibilities of the Director under this Act. The CIO' is responsible for, among other things, developing and maintaining a governmentwide strategic information resources management plan; developing proposed legislative or regulatory changes needed to improve government information resources management; reviewing agency information resources management regulations and practices; and coordinating with the Administrator of the Office of Federal Procurement Policy on federal information technology procurement policies. The CIO is required to review all high risk information technology programs before an agency may carry out or proceed with that program.

Subtitle D (Executive Agencies) assigns responsibility and accountability for carrying out agency information resources management activities and for complying with the requirements of this Act and related policies established by the national CIO to the head of each executive agency. Agencies are allowed to procure information technology costing under $100 million without OMB approval, while the national CIO must approve all information technology acquisitions over $100 million. Each agency is required to establish an agency CIO. The agency CIO is responsible for ensuring that agency mission-related and administrative processes are reviewed and improvement opportunities identified, and appropriate changes made to those processes before investing in supporting information technology.

The head of the agency is required to terminate any information technology program or program phase or increment that exceeds it established goals for cost or schedule by 50 percent or does not achieve at least 50 percent of its performance goals; and consider terminating any program or program phase or increment that exceeds its established goals for cost or schedule by 10 percent or does not achieve at least 90 percent of its performance goals. The agency CIO is required to monitor program cost, schedule and performance goal modifications, and consider the number and impact of such changes when deciding whether to continue or terminate the program.

The Department of Defense and Central Intelligence Agency are each delegated total responsibility for this Act, including that for high risk information technology programs. The delegation may be revoked, in whole or part, by the Director of OMB. Both agencies are required to provide the Director of OMB with an annual report on the status of their implementation of this Act.

Subtitle E (Federal Information Council) establishes a council composed of agency CIOs and others designated by the Director of OMB who shall serve as chairperson. The Council will establish strategic direction for the federal information infrastructure, offer information resources management advice and recommendations to the Director, and establish a committee of senior managers to review high risk information technology programs. A Software Review Council is established under the Federal Information Council to develop guidelines related to software engineering, integration of software systems, and use of commercial-off-the-shelf software.

Subtitle F (Interagency Functional Groups) authorizes agencies to jointly create governmentwide or multi-agency groups which will focus on functions, processes, or activities which are common to more than one agency and facilitate common information technology solutions for common problems and processes. Recommendations of the functional groups are provided to the Director of OMB or Federal Information Council as appropriate.

Subtitle G (Congressional Oversight) creates the Joint Committee on Information; composed of eight members, four appointed by the chair of both the Senate Committee on Governmental Affairs and the House of Representatives Committee on Government Reform and Oversight. Members serve for one Congress but may be reappointed. The Committee is responsible for reviewing the acquisition and management of information resources issues. This Act transfers functions and records of the Joint Committee on Printing and the Joint Committee of Congress on the Library to the Joint Committee on Information and terminates those Joint Committees.

Subtitle H (Other Responsibilities) transfers responsibilities related to development of information standards identified in the Computer Security Act of 1987 and the National Institute for Standards and Technology Act to the Director of OMB, and transfers responsibility for the Information Systems Security and Privacy Advisory board to the national CIO.

Title II (Process for Acquisitions of Information Technology) contains two subtitles. Subtitle A (Procedures) requires the Director of OMB to develop clear, concise information technology acquisition procedures and guidelines. The acquisition procedures and guidelines will be based on the following cost thresholds: under $5 million, $5–$25 million, $25–100 million, and $100 million and above. The procedures should reflect the increasing program risk associated with higher dollar acquisitions, the type of information technology procured (e.g., commodity, services), and other information technology issues. The procedures must include guidance for developing performance measures for information technology programs and using commercial items where appropriate.

Executive agencies are required to implement agency-wide acquisition procedures and guidelines which are based on and consistent with the above OMB-developed procedures, and establish a mechanism to periodically review agency information technology acquisitions. Agency acquisition procedures must include methods for determining program risks and benefits, guidelines for incremental acquisition and implementation of information technology, and establish an 18 month deadline for delivery of information technology program increments. Procurements of commercial off the shelf (COTS) information technology will be exempt from all procurement laws (identified by the national CIO in consultation with the Federal Information Council) except those which require full and open competition. Agencies will be allowed to limit to three the number of offerors who can submit best and final offers; use a two-phase solicitation process; and reward or penalize vendors based on contract performance measures.

Subtitle B (Acquisition Management) requires the head of an executive agency to establish minimum qualifications for information technology acquisition personnel and to provide for continuous training of those personnel. The head of each executive agency is required to determine whether agency personnel are available or whether an executive agent should be used to carry out an information technology acquisition. The subtitle expresses the sense of Congress that management oversight should focus on the mission-related and administrative processes supported by information technology and the results or effects of information technology acquisitions on those processes, rather than focus on the acquisition process and its procedures.

Title III (Special Fiscal Support for Information Innovation) contains four subtitles which address funding issues associated with this Act. Subtitle A (Information Technology Fund) establishes an information technology fund with two separate accounts in the Treasury, the Innovation Loan Account and the Common Use Account.

Subtitle B (Innovation Loan Account) directs that funds contained in the Innovation Loan Account be available for providing loans to agencies which have identified an innovative information technology solution to an agency problem. Loans are to be repaid by the agency by reimbursing the Account with 50 percent of the annual savings achieved by the information technology program funded by the such loans. This account will initially be funded by transferring five percent of each agency's information technology budget to the account for each of five fiscal years beginning in FY96.

Funds to support multi-agency and governmentwide information infrastructure services or acquisition programs will be funded by the second information technology fund account as defined in Subtitle C (Common Use Account). In selecting programs to be funded using the Common Use Account, the Director of OMB will consider criteria such as whether the program provides an innovative solution for reorganizing processes; supports interoperability among two or more agencies; or improves service to the public. Funding from this account is limited to two fiscal years. The Common Use Account will

be funded initially by the transfer of unobligated funds held in the existing GSA Information Technology Fund and in the future by fees assessed users of the common information technology service or program.

Subtitle D (Other Fiscal Policies) requires the head of each executive agency to certify that mission-related and/or administrative process(es) have been reviewed and revised (reengineered) before funds may be expended to acquire an information technology program that supports those process(es). The subtitle states that improvements in information resources management should enable agencies to decrease information technology operation and maintenance costs by five percent and increase efficiency of agency operations by five percent. The Comptroller General, agency Inspector General or other audit agency is required to conduct an independent review of the executive agency's information resources plans, acquisitions, and management for five fiscal years beginning in FY96 to determine whether the agency's information technology operating and maintenance costs have decreased by at least five percent annually and whether agency operational efficiency, as measured by performance goals, has increased at least five percent.

Title IV (Information Technology Acquisition Pilot Programs) contains two subtitles related to pilot programs authorized under this Act. Subtitle A (Conduct of Pilot Programs) authorizes the National CIO to conduct, with advice of the federal Information Council, five pilot programs designed to evaluate alternative approaches for acquiring and implementing information technology programs. The CIO is limited to a total of $1.5 billion for the conduct of the pilot programs. Agencies selected to carry out a pilot program acquisition are required to develop criteria which can be used to measure the success of the effort, and the national CIO must submit to Congress a test plan that identifies how the pilot effort will be measured against its objectives. The national CIO to provide the results of pilot programs conducted under this Act to the Director, OMB and Congress within six (6) months of their completion, and recommendations regarding information technology legislation to Congress.

Subtitle B (Specific Pilot Programs) identifies the five specific pilot programs authorized under this Act. The first, the Share-in-Savings Pilot Program, is designed for information technology acquisitions in which the government seeks a creative or innovative solution from industry. Up to five contracts are authorized under the pilot. The savings achieved by the vendor's innovative solution will be shared between the vendor and government.

The second pilot, the Solutions-Based Contracting Pilot Program, is designed for programs in which the information technology need or problem is similar to one found in the private sector, and is based on industry providing proven business solutions to government problems. Contractors will be selected based primarily on the contractor's qualifications and past performance. A maximum of 10 programs valued between $25 million and $100 million and 10 programs valued between $1 million and $5 million for small business are authorized under this pilot program, and will be carried out by up to two civilian agencies and one defense agency.

Third, the Pilot Program for Contracting for Performance of Acquisition Functions, will allow up to five agencies to contract with the private sector to conduct procurement and management functions related to an information technology acquisition. An agency selected for this pilot program will award a contract to a vendor who will be responsible for performing all the work associated with procuring and managing an information technology acquisition.

The final two pilot programs, the Major Acquisitions Pilot Program, are authorized for acquisitions of information technology over $100 million. The pilots will be carried out by a selected civilian agency and by a defense agency, and will be limited to a 3 year test period and $300 million total funding limit. The two pilots initiated under this pilot program are intended to, among other things, identify ways to incrementally build information systems, allow systems to keep pace with technology advancements.

Title V (Other Information Resources Management Reforms) contains seven sections related to various information technology initiatives. This title transfers responsibility for the Federal Acquisition System Network (FACNET) to the national CIO, and authorizes the nation CIO to establish up to three competing programs for the development and testing of system designs which will be part of FACNET and which support the electronic purchase of commercial information technology items. Based on the results of the design and test, the CIO is to report recommendations regarding implementation of an electronic marketplace for purchasing commercial information technology to Congress.

The title authorizes the head of a field office, under authority and direction of the head of the executive agency for that field office, to sue micro-purchase procedures to procure up to $20,000 per year for computer hardware upgrades in increments of $2,500, in addition to the $20,000 limit provided under the Federal Acquisition Streamlining Act of 1994.

The title authorizes the head of an executive agency to give excess or surplus information technology equipment to public elementary and secondary schools, public libraries, or public universities or colleges, and requires agencies to maintain an inventory of its equipment to support this process.

The Comptroller General of the U.S. is required to analyze the costs and benefits of buying versus leasing new or used information technology and develop guidelines for agencies based on that analysis. The title authorizes contractors who provide the design or engineering support for an information system design, to also compete for or be part of a contractor team which bids on and/or wins the contract for implementing the information system. Finally, the title contains provisions for pay and performance incentives for personnel involved in information technology acquisitions.

Title VI (Actions Regarding Current Information Technology Programs) contains three subsections related to ongoing or existing information technology programs. The title requires the head of an executive agency to establish performance measures for all ongoing agency information technology programs and requires that such measures be used to support decisions regarding program continuation or termination. The head of an executive agency is also required to obtain an independent assessment of each current agency information technology program over $100 million to identify opportunities for improving or reengineering the process supported by the information technology program; and determine whether the program is meeting current agency needs and strategic plans.

Title VII (Procurement Protests) amends current law to allow the Comptroller General, in the case of information technology acquisition protests, to recommend that an agency's procurement authority be suspended for that acquisition. This title also requires the Comptroller General to issue a decision relating to an information technology protest within 45 days and bars further protest to the Comptroller General under this subchapter once a decision is made.

Title VII (Conforming and Clerical Amendments) contains three subtitles. Subtitle A (Related Terminations) eliminates the Office of the Information and Regulatory Affairs (OIRA) within OMB, and eliminates the position of Senior Information Resources Management Official in agencies which are required to have a CIO under this Act. Subtitle B (Conforming Amendments) identifies conforming amendments that modify Titles 10, 28, 31, 38, 44, 49 of the United States Code; the Computer Security Act of 1987; the National Security Act of 1947; National Energy Conservation Policy Act; and Public Law 101–520 for consistency with the provisions of this Act. Subtitle C (Clerical Amendments) provides clerical changes to Title 10, Title 38 and Title 44 of United States Code which provide consistency with this Act.

Title IX (Savings Provisions) allows selected information technology actions and acquisition proceedings, including claims or applications, which have been initiated by or are pending before the Administrator of the General Services Administration or the General Services Administration Board of Contract Appeals to be continued under their original terms until terminated, revoked, or superseded in accordance with law by the Director of OMB, the national CIO, by a court, or operation of law. The Director of OMB is authorized to establish regulations for transferring such actions and proceedings.

Title X (Enactment) makes this Act and amendments made by this Act, with the exception of Title VI, effective one (1) year after enactment. Title VI will take effect on the date of the enactment of this Act.

Mr. LEVIN. Mr. President, I am pleased to join my colleague, Senator COHEN, in cosponsoring the Information Technology Management Reform Act of 1995. This bill is the product of months of work by Senator COHEN and his staff, who have engaged in an extensive review of problems with Government purchases of information technology systems and endeavored to come up with a comprehensive legislative solution to those problems.

The bill that they have put together would dramatically revise federal procurement procedures for information technology products and services by repealing the Brooks Act of 1965, eliminating the requirement for a ''delegation of procurement authority'' by the General Services Administration, and ending the unique role of the General Services Board of Contract Appeals in information technology bid protests.

In the place of these laws, the Cohen bill would establish a new Chief Information Officer, or CIO in the Office of Management and Budget and in each of the 23 major Federal agencies and give them responsibility for information management and the acquisition of information technology. It would create a Federal Information Council to coordinate governmentwide and multiagency information technology acquisitions and a Software Review Council to act as a clearinghouse for commercial and off-the-shelf software programs that could meet agency needs.

The bill would require governmentwide guidelines to assist agencies in assessing their information technology

needs, mandate up-front acquisition planning and risk management, establish goals for information technology costs and efficiency improvements, and provide performance incentives for vendors and agency personnel who perform well. It would favor incremental purchases of information technology over a period of years, streamline contracting requirements, establish a series of pilot programs to test innovative procedures, and consolidate administrative bid protests in the General Accounting Office.

Mr. President, much has changed in the 30 years since Congress adopted the Brooks Act. In 1965, we were buying main frame computers, which were centrally located, managed, and acquired by a small core of Government computer experts. Today, by contrast, every Government agency is trying to take advantage of a rapidly evolving commercial marketplace for personal computers, packaged software, and other information technology products and services. Our rigid and centralized Government computer acquisition systems are having increasing difficulty keeping up.

So it is very much time for us to reexamine those acquisition systems from the ground up. It is appropriate for us to ask why bid protest procedures and standards that have met our needs for products ranging from toasters to fighter aircraft cannot also meet our needs in the area of computer procurement. It is appropriate for us to ask whether we still need the centralized approach of the Brooks Act, under which the General Services Administration is responsible for approving computer purchases by other Federal agencies.

Just as important, I think it is time for us to take another look at the increasingly complex and unwieldy Government specifications used in computer procurements today. Does it really make sense that in an era of rapidly evolving commercial technology, the Government is still trying to design its own computer systems? Isn't there some way that we can better harness the know-how of the private sector to do this for us? The bill we are introducing today takes some steps in this direction; I hope that as we consider this issue in hearings and markup, we will be able to do even more.

So I congratulate Senator COHEN and his staff for the leadership they have shown in putting these issues on the table. I congratulate them for the bold and comprehensive approach that they have taken to the problems of acquiring information technology.

At the same time, Mr. President, there are some provisions in this bill which I do not support in their current form. For example, several provisions call for the automatic termination of contracts and solicitations, and even automatic pay adjustments for Federal employees, based on artificial formulas which are intended to reflect the performance of agency employees and contractors. I believe that every acquisition program presents its own unique challenges, which cannot be evaluated with a single mechanistic formula. For this reason, I do not think that business judgments about contract terminations and pay adjustments can or should be made on the basis of such formulas.

Similarly, I am concerned by provisions of the bill that would overturn the prohibition on organizational conflicts of interest in acquisitions of information technology. I agree that we need to consider new types of competition, including design-build contracts and two-step procurements, in purchases of information technology. That does not mean, however, that we should abandon all concern about providing a level playing field for all participants in such purchases.

I am also reserving judgment on the new organizational structures established by the bill, including the chief information officers in OMB and each of the 23 major Federal agencies, and the two new councils. We recently passed the reauthorization of the Paperwork Reduction Act, which places responsibility for information management in the Office of Information and Regulatory Affairs. This bill would take those functions out of that office and establish a new position and a new office. I want to carefully review the consequences of such a proposal to determine whether this possible enlargement of the bureaucracy brings sufficient benefits to justify the cost.

Finally, I do not look with favor on the establishment of a new Joint Committee on Information. At a time when we are trying to down-size our own committee system, with particular attention being paid to the role of joint committees, I am very leery of creating a whole new congressional entity just to oversee information management. I believe it is fair for us to ask whether we need to establish new oversight structures, or whether we could instead trust Federal agencies to make their own information technology purchases pursuant existing congressional and agency oversight mechanisms and the streamlined policies and procedures established in the bill.

I hope that we will continue to work on these and other aspects of the bill in hearings and at markup. Overall, however, the Cohen bill is an impressive effort to address some very real problems with the way we purchase and manage information technology in the Federal Government today. I may not agree with everything in the bill, but I do believe that it points us in the right direction. I am pleased to be an original cosponsor of the bill, and I look forward to working with Senator COHEN as we move forward to modernize our information technology acquisition laws.

By Mr. PRESSLER (for himself and Mr. DASCHLE):

S. 947. A bill to amend title VIII of the Elementary and Secondary Education Act of 1965 regarding impact aid payments, and for other purposes; to the Committee on Labor and Human Resources.

IMPACT AID PROGRAM TECHNICAL AMENDMENTS ACT

Mr. PRESSLER. Mr. President, today I am introducing a bill to make technical improvements in the Impact Aid Program. Last year, I was pleased to be the lead sponsor of the initial Impact Aid reauthorization. That bill was incorporated into the Improving America's Schools Act, now Public Law 103–382.

As my colleagues know, the Impact Aid Program is an ongoing Federal responsibility. More than 2,600 school districts enrolling more than 20 million children depend on the program. In South Dakota for example, Impact Aid is the lifeblood of more than 55 school districts. Without it, these districts could not recoup the lost tax base caused by a Federal presence.

As with any legislation of this scope, corrections often need to be made. The bill I am introducing today fine-tunes last year's reauthorization in several ways. The bill first makes technical changes in section 8002, which reimburses districts for Federal land. During the reauthorization, language was omitted which permitted districts which had been formerly consolidated to retain their eligibility. It was not the intent of the authorizing committees to exclude these districts. The provision in my bill would restore eligibility to more than 80 school districts, allowing them to receive the revenue they had planned on.

Second, a hold harmless agreement for section 8002 school districts also would be put in place. The reauthorization made dramatic changes in the formula for section 8002. The hold harmless provision would prevent a district's payment from being decreased below 85 percent of its payment for the previous year. This agreement would protect section 8002 school districts and expedite payments while the Department of Education works out the new calculations. This brings section 8002 into line with the other sections of the law, which also contain hold harmless provisions.

Third, the bill would make several clarifications in section 8003, the section which authorizes funding for heavily impacted districts. One of these provisions clarifies the legal use of supplemental funds received by section 8003 districts from the Department of Defense. These school districts should not have these supplemental payments counted against their regular section 8003 payments. The Department of Defense payments were intended as additional payments for capital outlay expenses, not as funds for day-to-day operations.

Fourth, the bill amends the law regarding ''civilian b'' students. ''B'' students are those whose parents either live or work on Federal property. In

the past, school districts could be eligible for ''b'' funds if either 15 percent or 2,000 students in impacted average daily attendance [ADA] are ''b'' students. The reauthorization changed this language so that only school districts with 15 percent impacted ADA and 2,000 impacted students may qualify. This change excluded many previously eligible schools from the program, especially in small States such as South Dakota. This change tilts the program in favor of large urban areas at the expense of small rural areas. Many, if not most, school districts in South Dakota do not have 2,000 students in ADA, much less 2,000 impacted students.

Finally, the bill would allow two districts in South Dakota, Bonesteel-Fairfax and Wagner, to claim eligibility for section 8003 for the current year. These two schools meet all the criteria for section 8003 funds, but could not qualify because of regulations that prevented them from amending their application after September 30. Allowing these two districts to claim eligibility would not alter section 8003 payments to other schools.

This bill represents no departures in policy from previous legislation. It would require no new funds. It simply would clear up several areas of uncertainty and enable the program to run more efficiently. This bill enjoys bipartisan support. The Impact Aid Program has been operating successfully for more than 40 years. These changes will help the program continue to run smoothly for years to come.

Mr. President, as we begin this year's appropriations process, the Impact Aid Program is in danger once again of being drastically cut. Again, I remind my colleagues that it is due to a Federal presence that nearby schools lose tax revenue and have to rely on the Impact Aid Program. It would be most unfair to federally impacted districts and the children they serve if the Federal government opted to deny them both a tax base and Federal support. Without this Federal support, local and county governments would be forced to either raise taxes or cut services to its citizens. A Federal presence should not force local governments to make that choice.

Impact Aid is a continuing responsibility that Congress cannot shirk. I look forward to working with my colleagues on both sides of the aisle to further enhance this program in the year ahead.

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. 947

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPACT AID.

(a) HOLD-HARMLESS AMOUNTS FOR PAYMENTS RELATING TO FEDERAL ACQUISITION OF REAL PROPERTY.—Section 8002 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702) is amended by adding at the end the following new subsections:

''(g) FORMER DISTRICTS.—

''(1) IN GENERAL.—Where the school district of any local educational agency described in paragraph (2) is formed at any time after 1938 by the consolidation of two or more former school districts, such agency may elect (at any time such agency files an application under section 8005) for any fiscal year to have (A) the eligibility of such local educational agency, and (B) the amount which such agency shall be eligible to receive, determined under this section only with respect to such of the former school districts comprising such consolidated school districts as such agency shall designate in such election.

''(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency referred to in paragraph (1) is any local educational agency that, for fiscal year 1994 or any preceding fiscal year, applied for and was determined eligible under section 2(c) of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect on September 30, 1994.

''(h) HOLD-HARMLESS AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2)(A), the total amount that the Secretary shall pay a local educational agency under subsection (b)—

''(A) for fiscal year 1995 shall not be less than 85 percent of the amount such agency received for fiscal year 1994 under section 2 of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect on September 30, 1994; or

''(B) for fiscal year 1996 shall not be less than 85 percent of the amount such agency received for fiscal year 1995 under subsection (b).

''(2) RATABLE REDUCTIONS.—(A)(i) If necessary in order to make payments to local educational agencies in accordance with paragraph (1) for any fiscal year, the Secretary first shall ratably reduce payments under subsection (b) for such year to local educational agencies that do not receive a payment under this subsection for such year.

''(ii) If additional funds become available for making payments under subsection (b) for such year, then payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.

''(B)(i) If the sums made available under this title for any fiscal year are insufficient to pay the full amounts that all local educational agencies in all States are eligible to receive under paragraph (1) after the application of subparagraph (A) for such year, then the Secretary shall ratably reduce payments under paragraph (1) to all such agencies for such year.

''(ii) If additional funds become available for making payments under paragraph (1) for such fiscal year, then payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.''.

(b) COMPUTATION OF PAYMENT.—Paragraph (3) of section 8003(a) of such Act (20 U.S.C. 7703(a)) is amended by striking ''and such'' and inserting '', or such''.

(c) PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN.—Subsection (f) of section 8003 of such Act (20 U.S.C. 7703) is amended—

(1) in paragraph (2)—

(A) in the matter preceding clause (i) of subparagraph (A), by striking ''only if such agency'' and inserting ''if such agency is eligible for a supplementary payment in accordance with subparagraph (B) or such agency''; and

(B) by adding at the end the following new subparagraph:

''(C) A local educational agency shall only be eligible to receive additional assistance under this subsection if the Secretary determines that—

''(i) such agency is exercising due diligence in availing itself of State and other financial assistance; and

''(ii) the eligibility of such agency under State law for State aid with respect to the free public education of children described in subsection (a)(1) and the amount of such aid are determined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount of such aid, with respect to the free public education of other children in the State.''; and

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by inserting ''(other than any amount received under paragraph (2)(B))'' after ''subsection'';

(ii) in subclause (I) of clause (i), by striking ''or the average per-pupil expenditure of all the States'';

(iii) by amending clause (ii) to read as follows:

''(ii) The Secretary shall next multiply the amount determined under clause (i) by the total number of students in average daily attendance at the schools of the local educational agency.''; and

(iv) by amending clause (iii) to read as follows:

''(iii) The Secretary shall next subtract from the amount determined under clause (ii) all funds available to the local educational agency for current expenditures, but shall not so subtract funds provided—

''(I) under this Act; or

''(II) by any department or agency of the Federal Government (other than the Department) that are used for capital expenses.''; and

(B) by amending subparagraph (B) to read as follows:

''(B) SPECIAL RULE.—With respect to payments under this subsection for a fiscal year for a local educational agency described in clause (ii) or (iii) of paragraph (2)(A), the maximum amount of payments under this subsection shall be equal to—

''(i) the product of—

''(I) the average per-pupil expenditure in all States multiplied by 0.7, except that such amount may not exceed 125 percent of the average per-pupil expenditure in all local educational agencies in the State; multiplied by

''(II) the number of students described in subparagraph (A) or (B) of subsection (a)(1) for such agency; minus

''(ii) the amount of payments such agency receives under subsections (b) and (d) for such year.''.

(d) CURRENT YEAR DATA.—Paragraph (4) of section 8003(f) of such Act (20 U.S.C. 7703(f)) is amended to read as follows:

''(4) CURRENT YEAR DATA.—For purposes of providing assistance under this subsection the Secretary—

''(A) shall use student and revenue data from the fiscal year for which the local educational agency is applying for assistance under this subsection; and

''(B) shall derive the per-pupil expenditure amount for such year for the local educational agency's comparable school districts by increasing or decreasing the per pupil expenditure data for the second fiscal year preceding the fiscal year for which the determination is made by the same percentage increase or decrease reflected between the per pupil expenditure data for the fourth fiscal year preceding the fiscal year for which the determination is made and the per

pupil expenditure data for such second year.''.

(e) SPECIAL RULE FOR 1994 PAYMENTS.—The Secretary shall not consider any payment to a local educational agency by the Department of Defense, that is available to such agency for current expenditures and used for capital expenses, as funds available to such agency for purposes of making a determination for fiscal year 1994 under section 3(d)(2)(B)(i) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on September 30, 1994).

(f) APPLICATIONS FOR INCREASED PAYMENTS.—

(1) PAYMENTS.—(A) Notwithstanding any other provision of law—

(A) the Bonesteel-Fairfax School District #26–5, South Dakota, and the Wagner Community School District #11–4, South Dakota, shall be eligible to apply for payment for fiscal year 1994 under section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on September 30, 1994); and

(B) the Secretary of Education shall use a subgroup of 10 or more generally comparable local educational agencies for the purpose of calculating a payment described in subparagraph (A), and the local contribution rate applicable to such payment, for a local educational agency described in such subparagraph.

(2) APPLICATION.—In order to be eligible to receive a payment described in subsection (a), a school district described in such subsection shall apply for such payment within 30 days after the date of enactment of this Act.

(3) CONSTRUCTION.—Nothing in this section shall be construed to require a local educational agency that received a payment under section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on September 30, 1994) for fiscal year 1994 to return such payment or a portion of such payment to the Federal Government.

Mr. DASCHLE. Mr. President, today, along with Senator PRESSLER and Congressman JOHNSON, I am introducing legislation making technical amendments to the Impact Act law to clarify the eligibility requirements for aid to federally impacted school districts. Federal Impact Aid is essential to the education and development of thousands of children across the United States.

Some of the provisions of Public Law 103–382, last year's reauthorization of the Elementary and Secondary Education Act, were not clearly known or fully understood until the implementation of the law was underway. Now that implementation is underway, one area of the law that demands clarification is that governing payments to section 8002 schools (formerly section 2).

Section 8002 provides a payment in lieu of taxes to those school districts which have lost at least 10 percent of the assessed value of their taxable land due to Federal acquisition. It provides partial compensation for the presence of Federal property within a school district's borders. Prior to Public Law 103–382, Congress included specific statutory protection to school districts that consolidated with districts that included Federal property. However, this provision was not included in Public Law 103–382; therefore, formerly eligible districts are not deemed ineligible.

The new law jeopardizes the eligibility of consolidated school districts that are eligible based on former district status. Previously, section 2 authorized reimbursements to a school district in which the Federal Government had acquired, since 1938, at least 10 percent of the taxable assessed value of the district. In many cases, especially in South Dakota, schools have found it necessary to consolidate, and the old law provided a safeguard for those schools. This safeguard provision in section 2 enabled districts to be eligible for funds if one or more of the consolidating districts was a former district with a 10 percent Federal impact. However, under Public Law 103–382, to be eligible for section 8002 payments, the current district itself must be affected by 10 percent or more, not counting any former school districts.

The elimination of the safeguard language will have a devastating effect on section 8002 schools in South Dakota. Under the new law, 18 of the 21 school districts in South Dakota that currently receive section 2 funds would be ineligible. Although the dollar amounts received may seem small, the funds are critical to enable these districts to provide basic educational needs.

The legislation we are introducing today would reinstate the former safeguard for section 8002 schools. It is important to note that our bill would not allow newly consolidated school districts to claim eligibility.

This bill also brings the hold harmless provisions for section 8002 districts, at 85 percent, in line with those governing other sections of the law; makes a technical correction regarding ''civilian b'' students; clarifies that supplemental payments from other Federal agencies used for capital outlays should not be counted against the district's overall supplemental payments; authorizes the adjustment of prior year financial data to accommodate current year need; and allows certain districts to apply for section 8003 funds if excess funds are remaining.

I hope these technical amendments can be adopted expeditiously.

By Mr. DORGAN (for himself, Mr. HELMS, Mr. INOUYE, Mr. LEAHY, Mr. MURKOWSKI, and Mr. ROBB):

S. 948. A bill to encourage organ donation through the inclusion of an organ donation card with individual income refund payments, and for other purposes; to the Committee on Finance.

ORGAN DONATION INSERT CARD ACT

Mr. DORGAN. Mr. President, I rise today to reintroduce legislation that proposes an inexpensive public education campaign to encourage organ donation. Senators INOUYE, LEAHY, ROBB, MURKOWSKI, and HELMS join me in this effort. And my good friend in the House of Representatives, DICK DURBIN, is introducing the same bill in that body today.

The Organ Donation Insert Card Act would direct the Treasury Department to enclose organ donation information when it mails next year's Federal Income Tax refunds.

THE SHORTAGE OF ORGAN DONORS

The most common tragedy of organ donation is not the patient who receives a transplant and dies, but the patient who has to wait too long and dies before a suitable organ can be found. Three thousand people will die this year because their bodies simply cannot wait any longer for the needed transplant.

In the meantime, the number of people added to the waiting list continues to increase dramatically. More than 40,000 people are currently on the waiting list—double the number on the list 5 years ago. Just in the last year, 9,000 people have been added to the waiting list, and a new name is added every 18 minutes.

Organ transplants can only happen if a grieving family authorizes the donation of their loved one's organs. Even a signed organ donor card does not ensure a donation because the next-of-kin must also agree to the donation.

I certainly understand that it is difficult for families to cope with the unexpected death of a loved one. Often, potentially life-saving transplants never occur because family members hesitate to permit organ donation at this emotionally demanding time. However, if family members can remember that a loved one talked to them about this matter, they are more likely to authorize the donation.

That's why it's so important for willing donors to discuss their wishes with their families before a tragedy can occur. Many family members will never have to act on these wishes. But if this difficult decision does arise, something good can come from this misfortune.

THE ORGAN DONATION INSERT CARD PROPOSAL

My legislation provides a simple, inexpensive way for the Federal Government to help educate potential donors and their families about organ donation.

My legislation would direct the Secretary of the Treasury to enclose with each income tax refund mailed next year information that encourages organ donation. The information would include a detachable organ-donor card. It would also include a message urging recipients to sign the card, tell their family they are willing to be an organ donor, and encourage their family to permit organ donation should the decision prove necessary.

The Treasury Department has said that enclosing this information with every tax refund would reach about 70 million households at a cost of only $210,000. The population that would receive these insert cards is very appropriate for the organ donation appeal.

The medical and transplant recipient communities strongly support this proposal. In fact, last year, more than 20

of these organizations endorsed this legislation.

By increasing public awareness and encouraging family discussion about organ donation, this legislation would increase the number of donors and reduce the number of people who die while waiting for transplants. I urge my colleagues to cosponsor and support this important measure.

Mr. President, I ask unanimous consent that the text of the bill and a summary of its provisions be printed in the RECORD.

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

S. 948

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Organ Donation Insert Card Act''.

SEC. 2. ORGAN DONATION INFORMATION INCLUDED WITH INCOME TAX REFUND PAYMENTS.

(a) IN GENERAL.—The Secretary of the Treasury shall include with any payment of a refund of individual income tax made during the period beginning on February 1, 1996, and ending on June 30, 1996, a copy of the document described in subsection (b).

(b) TEXT OF DOCUMENT.—The Secretary of the Treasury shall, after consultation with the Secretary of Health and Human Services and organizations promoting organ donation, prepare a document suitable for inclusion with individual income tax refund payments which—

(1) encourages organ donation;

(2) includes a detachable organ donor card; and

(3) urges recipients to—

(A) sign the organ donor card;

(B) discuss organ donation with family members and tell family members about the recipient's desire to be an organ donor if the occasion arises; and

(C) encourage family members to request or authorize organ donation if the occasion arises.

THE ORGAN DONATION INSERT CARD ACT

WHAT THE LEGISLATION DOES

This legislation directs the Secretary of the Treasury to enclose with each income tax refund check mailed between February 1 and June 30 of next year a card that encourages organ donation.

The insert would include a detachable organ-donor card. It also would include a message urging individuals to sign the card, tell their families about their willingness to be an organ donor, and encourage their family members to request or authorize organ donation if the occasion arises.

The text of the card would be developed by the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services and organizations promoting organ donation.

WHY THE LEGISLATION IS NEEDED

The most common tragedy of organ transplantation is not the patient who receives a transplant and dies, but the patient who has to wait too long and dies before a suitable organ can be found. More than 3,000 people on the waiting list will die this year before receiving a transplant.

The demand for organs greatly exceeds the supply. More than 40,000 people now are waiting for an organ transplant, including over 1,400 children and more than 25,000 people who must have kidney dialysis while they wait for a kidney to become available. Meanwhile, another person is added to the list every 18 minutes.

We lose many opportunities for organ donation because people hesitate to authorize organ donation for themselves or their family members. Even a signed donor card does not ensure a donation because the next-of-kin must authorize the donation.

By encouraging organ donation and disseminating information about the importance of family discussion, this legislation could expand the pool of potential donors, increase the likelihood that families will authorize donation upon the death of a loved one, and reduce the number of people who die while waiting for organ transplants.

IMPLEMENTATION

Every year, the Treasury Department already puts an insert card in refund check mailings. According to the Treasury Department, the cost of the insert cards is $210,000. In recent years, the insert cards have offered special coins for sale. Switching from an appeal about coins to an appeal about organ donation for one year could save many lives for many years to come.

About 70 million households would receive the organ donor information and card. The population that would receive these cards is very appropriate for the organ donation appeal. For most transplants, the optimum age range for organ donors is 15 to 65. Individuals who receive refunds tend to be adults below retirement age. They tend to be of prime age for organ donation and often are the next-of-kin of others who could be prime candidates for organ donation.

More than 20 organizations in the medical and transplant recipient communities endorsed this proposal last year.

By Mr. GRAHAM (for himself, Mr. ROBB, Mr. WARNER, Mr. HEFLIN, Mrs. KASSEBAUM, Mr. INOUYE, and Mr. SHELBY):

S. 949. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington; to the Committee on Banking, Housing, and Urban Affairs.

GEORGE WASHINGTON COMMEMORATIVE COIN ACT

Mr. GRAHAM. Mr. President, It is my distinct honor to introduce, with my colleagues, Senators ROBB, WARNER, KASSEBAUM, HEFLIN, INOUYE, and SHELBY, the George Washington Commemorative Coin Act of 1995.

On December 14, 1799, the United States lost its most honored patriot, a living embodiment of the ideals of the American Revolution. Unlike his contemporaries, many Americans today do not understand President Washington's importance, and while his reputation as America's greatest hero has remained for the most part intact, it seems that each generation knows less about George Washington than the previous one.

The George Washington Commemorative Coin Act of 1995 will focus public attention on the significance of our first President and the legacy he left behind. This legislation would authorize the Secretary of the Treasury to mint 100,000 gold coins in 1999, commemorating the 200th anniversary of Washington's death. The sale of these coins will cover costs that the Federal Government will incur in the minting of the coin and will provide a $35 surcharge which will be transferred to Mount Vernon.

The George Washington Commemorative Coin Act was recommended by the Citizens Commemorative Advisory Committee in its initial report to Congress last November, and was drafted with the assistance of the U.S. Mint.

Mount Vernon has the distinction of being the beloved home of our first President as well as our Nation's oldest and foremost historic preservation project. The proceeds from the sale of the coin will be added to Mount Vernon's endowment for the preservation of George Washington's home and the continuation of Mount Vernon's efforts to educate the American public about his life and accomplishments.

Mr. President, I urge my colleagues to join me in supporting the George Washington Commemorative Coin Act of 1995, thus ensuring that future generations have a full understanding of the importance of our Nation's first President.

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. 949

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''George Washington Commemorative Coin Act''.

SEC. 2. COIN SPECIFICATIONS.

(a) FIVE DOLLAR COINS.—The Secretary of the Treasury (in this Act referred to as the ''Secretary'') shall mint and issue not more than 100,000 $5 coins, each of which shall—

(1) weigh 8.359 grams;

(2) have a diameter of 0.850 inches; and

(3) contain 90 percent gold and 10 percent alloy.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under other provisions of law.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this act shall be emblematic of George Washington, the first President of the United States.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''1999''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Mount Vernon Ladies' Association and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality of the coins minted under this Act.

(c) COMMENCEMENT OF ISSUANCE.—The Secretary may issue coins minted under this Act beginning May 1, 1999.

(d) TERMINATION OF MINTING AUTHORITY.—No coins may be minted under this Act after November 1, 1999.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $35 per coin.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—All surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Mount Vernon Ladies' Association to be used—

(1) to supplement the endowment of the Mount Vernon Ladies' Association, which shall be a permanent source of support for the preservation of George Washington's home; and

(2) for the continuation and expansion of the efforts of the Mount Vernon Ladies' Association to educate the American public about the life of George Washington.

(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Mount Vernon Ladies' Association as may be related to the expenditures of amounts paid under subsection (a).

SEC. 9. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

Mr. WARNER. Mr. President, I rise today with my good friend, Senator BOB GRAHAM, to introduce legislation that will be a source of support for Mount Vernon, the home of George Washington, the first President of the United States of America. The land, including Mount Vernon estate, has been in the Washington family since it was first patented in 1674 to John Washington, first of the name in America, and great-grandfather of George Washington. The estate served as home and, ultimately, final resting place for our first President and his wife, the former Martha Dandridge Custis. Indeed, Mount Vernon and the tomb of George Washington are held in such veneration that every ship of the United States Navy, while passing this spot, lowers its flag to half mast, tolls its bell and calls its crew to attention. Mount Vernon was declared as neutral ground by both North and South during the Civil War.

Mount Vernon is maintained by the Mount Vernon Ladies' Association, a nonprofit organization which scrupulously restored the estate following George Washington's own plans of detail and furnishings. Encompassing 487 acres, the grounds are landscaped according to Washington's records and notations to his estate manager. Mount Vernon is visited by more than 500,000 people a year.

The legislation which I am introducing today would authorize the U.S. Mint to produce a commemorative coin to honor the 200th anniversary of the death of George Washington. After recovery of minting and production costs, the proceeds of the George Washington commemorative coin, conservatively estimated at $5–$10 million, will be used for the preservation of George Washington's home and the expansion and continuation of Mount Vernon's efforts to educate the American public about our first President's life and accomplishments. This campaign will assure the full preservation and continued operation of the home of the first President of the United States.

Mr. President, George Washington was the living embodiment of the ideals of the American Revolution. His death in 1799 brought about an outpouring of grief remarkable even by modern standards. Unlike his contemporaries, many Americans today do not understand Washington's importance in creating the beginnings of a Nation that would become the most powerful and free country in the world. This legislation is an important step toward bringing all Americans closer to this great man.

I thank the Chair.

Mr. ROBB. Mr. President, I rise today with my colleagues from Florida and Virginia, Senators GRAHAM and WARNER, to introduce the George Washington Commemorative Coin Act.

This legislation requires the Secretary of the Treasury to issue a coin in the year 1999 commemorating the 200th anniversary of the death of George Washington. The surcharges raised from the selling of the coins will go to the Mount Vernon Ladies Association for the preservation of Mount Vernon and help the American people about the life and the legacy of our Nation's first President.

This is an important endeavor, Mr. President, because George Washington is one of our Nation's most prominent and beloved founding fathers. Before serving as President of a young Nation during its first 8 difficult years, Washington was a distinguished soldier and statesmen. After commanding the Virginia forces during the French and Indian Wars at the age of 23, Washington went on to serve his State and Nation as a member of both the Virginia House of Burgesses and the First Continental Congress. As Commander of the Continental Army during the Revolutionary War, he led the defeat of the most powerful nation on earth, and in doing so, allowed for the establishment of a bold experiment we call America.

As Virginius Dabney once wrote:

> George Washington epitomized what subsequent generations have come to recognize as a great, a good, a brave and a patriotic American. Without him there would have been no victory in war, no stability in peace. He came as close as anyone in our history to being the indispensable man.

In approving the George Washington Commemorative Coin Act, Mr. President, this Congress helps preserve the legacy of George Washington for future generations of the great nation he helped create and sustain.

I urge my colleagues to support this important legislation.

By Mrs. BOXER (for herself, Mr. KENNEDY, Mr. KERRY, Mr. SARBANES, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. AKAKA, Mr. INOUYE, Mrs. MURRAY, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. ROBB, Mr. GRAHAM, and Mr. LAUTENBERG):

S. 950. A bill to amend the Outer Continental Shelf Lands Act to direct the Secretary of the Interior to cease mineral leasing activity on submerged land of the Outer Continental Shelf that is adjacent to a coastal State that has declared a moratorium on mineral exploration, development, or production activity in adjacent State waters, and for other purposes; to the Committee on Energy and Natural Resources.

COASTAL STATES PROTECTION ACT OF 1995

Mrs. BOXER. Mr. President, today the Republican Congress took the first step to destroy the California coastline and the coastlines of other States. We Democrats in Congress want to make sure it is their last.

Congressman GEORGE MILLER and I are introducing legislation that will offer Republicans a comfortable path away from coastal destruction.

I say comfortable because this bill is based on States' rights and local control—two concepts embraced by Republicans—at least in theory.

Simply put, the Boxer-Miller bill—the Coastal States Protection Act of 1995—says that when a State establishes a drilling moratorium on part or all of its coastal water, our legislation would extend that protection to Federal workers.

It does a State no good to protect its own waters which extend 3 miles from the coast only to have drilling from 4 miles to 200 miles of Federal waters jeopardizing the entire State's coastline including the State's protected waters.

An oilspill in Federal waters will rapidly foul State beaches, contaminate the nutrient rich ocean floor upon which a local fishery industry depends, and endangers habitat on State tidelands.

Our bill simply directs the Secretary of the Interior to cease leasing activities in Federal waters where the State has declared a moratorium on such activities thus coordinating Federal protection with State protection.

Our bill has a fundamental philosophy—do no harm to the magnificent coastlines of America and respect State and local State laws.

Those groups endorsing our bill include the Center for Marine Conservation, the Natural Resources Defense Council, American Oceans Campaign, and the Safe Oceans Campaign.

Original cosponsors of the Moynihan bill include Senators MURRAY, KENNEDY, KERRY, SARBANES, MIKULSKI, AKAKA, INOUYE, BIDEN, FEINSTEIN, HOLLINGS, ROBB, GRAHAM, and LAUTENBERG.

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. 950

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Coastal States Protection Act''.

SEC. 2. STATE MORATORIA ON OFFSHORE MINERAL LEASING.

Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

''(p) STATE MORATORIA.—When there is in effect with respect to lands beneath navigable waters of a coastal State a moratorium on oil, gas, or other mineral exploration, development, or production activities established by statute or by order of the Governor, the Secretary shall not issue a lease for the exploration, development, or production of minerals on submerged lands of the outer Continental Shelf that are seaward of or adjacent to those lands.''.

ADDITIONAL COSPONSORS

S. 12

At the request of Mr. ROTH, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 12, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 254

At the request of Mr. LOTT, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 254, a bill 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. 304

At the request of Mr. SANTORUM, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 401

At the request of Mr. LEAHY, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 401, a bill to amend the Internal Revenue Code of 1986 to clarify the excise tax treatment of hard apple cider.

S. 581

At the request of Mr. FAIRCLOTH, the names of the Senator from Indiana [Mr. COATS] and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 581, a bill to amend the National Labor Relations Act and the Railway Labor Act to repeal those provisions of Federal law that require employees to pay union dues or fees as a condition of employment, and for other purposes.

S. 628

At the request of Mr. KYL, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 628, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 641

At the request of Mrs. KASSEBAUM, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 650

At the request of Mr. SHELBY, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 650, a bill to increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes.

S. 815

At the request of Mr. HATCH, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 815, a bill to amend the Internal Revenue Code of 1986 to simplify the assessment and collection of the excise tax on arrows.

S. 847

At the request of Mr. GREGG, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 847, a bill to terminate the agricultural price support and production adjustment programs for sugar, and for other purposes.

SENATE JOINT RESOLUTION 34

At the request of Mr. SMITH, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 34, a joint resolution prohibiting funds for diplomatic relations and most favored nation trading status with the Socialist Republic of Vietnam unless the President certifies to Congress that Vietnamese officials are being fully cooperative and forthcoming with efforts to account for the 2,205 Americans still missing and otherwise unaccounted for from the Vietnam War, as determined on the basis of all information available to the United States Government, and for other purposes.

SENATE RESOLUTION 97

At the request of Mr. HELMS, his name was added as a cosponsor of Senate Resolution 97, a resolution expressing the sense of the Senate with respect to peace and stability in the South China Sea.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Idaho [Mr. CRAIG], the Senator from Wyoming [Mr. SIMPSON], and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

SENATE RESOLUTION 117

At the request of Mr. ROTH, the names of the Senator from California [Mrs. FEINSTEIN] and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of Senate Resolution 117, a resolution expressing the sense of the Senate that the current Federal income tax deduction for interest paid on debt secured by a first or second home located in the United States should not be further restricted.

SENATE RESOLUTION 137—RELATING TO FUNDS FOR THE SENATE PAGE RESIDENCE

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 137

Resolved, That effective on and after June 18, 1995, amounts withheld by the Secretary of the Senate under section 902 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 88b–6) shall be deposited in the revolving fund, within the contingent fund of the Senate, for the Daniel Webster Senate Page Residence, as established by section 4 of the Legislative Branch Appropriations Act, 1995 (2 U.S.C. 88b–7).

AMENDMENTS SUBMITTED

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995

REID (AND FEINSTEIN) AMENDMENT NO. 1427

Mr. REID (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill (D. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes; as follows:

Beginning on page 26, strike line 14 and all that follows through page 28, line 9, and insert the following:

SEC. 115. LIMITATION OF NATIONAL MAXIMUM SPEED LIMIT TO CERTAIN COMMERCIAL MOTOR VEHICLES.

(a) IN GENERAL.—Section 154 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 154. National maximum speed limit for certain commercial motor vehicles";

(2) in subsection (a)—

(A) by inserting ", with respect to motor vehicles" before "(1)"; and

(B) in paragraph (4), by striking "motor vehicles using it" and inserting "vehicles driven or drawn by mechanical power manufactured primarily for use on public highways (except any vehicle operated exclusively on a rail or rails) using it";

(3) by striking subsection (b) and inserting the following:

"(b) MOTOR VEHICLE.—In this section, the term 'motor vehicle' has the meaning provided for 'commercial motor vehicle' in section 31301(4) of title 49, United States Code, except that the term does not include any vehicle operated exclusively on a rail or rails.";

(4) in the first sentence of subsection (e), by striking "all vehicles" and inserting "all motor vehicles"; and

(5) by redesignating subsection (i) as subsection (f).

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 154 and inserting the following:

"154. National maximum speed limit for certain commercial motor vehicles.".

(2) Section 153(i)(2) of title 23, United States Code, is amended to read as follows:

"(2) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.".

(3) Section 157(d) of title 23, United States Code, is amended by striking "154(f) or".

(4) Section 410(i)(3) of title 23, United States Code, is amended to read as follows:

"(3) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.".

LAUTENBERG (AND OTHERS) AMENDMENT NO. 1428

Mr. LAUTENBERG (for himself Mr. DEWINE, and Mrs. FEINSTEIN) proposed an amendment to the bill, S. 440, supra; as follows:

Beginning on page 26, strike line 14 and all that follows through page 28, line 9, and insert the following:

SEC. 115. POSTING OF MAXIMUM SPEED LIMITS.

(A) IN GENERAL.—Section 154 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 154. Posting of speed limits";

(2) in subsection (a)—

(A) in the first sentence—

(i) by inserting "failed to post" before "(1)";

(ii) by striking "in excess of" each place it appears and inserting "of not more than"; and

(iii) in paragraph (4), by striking "not"; and

(B) in the second sentence, by striking "established" and inserting "posted";

(3) by striking subsection (e); and

(4) by redesignating subsection (i) as subsection (e).

(b) CERTIFICATION.—The first sentence of section 141(a) of title 23, United States Code, is amended by striking "enforcing" and inserting "posting".

(c) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 154 and inserting the following:

"154. Posting speed limits.".

(2) Section 157(d) of title 23, United States Code, is amended by striking "154(f) or".

MACK AMENDMENT NO. 1429

Mr. CHAFEE (for Mr. MACK) proposed an amendment to the bill, S. 440, supra; as follows:

SEC. . SENSE OF THE SENATE REGARDING THE FEDERAL-STATE FUNDING RELATIONSHIP FOR TRANSPORTATION.

Findings:

(1) the designation of high priority roads through the National Highway System is required by the Intermodal Surface Transportation Efficiency Act (ISTEA) and will ensure the continuation of funding which would otherwise be withheld from the states.

(2) the Budget Resolution supported the re-evaluation of all federal programs to determine which programs are more appropriately a responsibility of the States.

(3) debate on the appropriate role of the federal government in transportation will occur in the re-authorization of ISTEA.

Therefore, it is the Sense of the Senate that the designation of the MHS does not assume the continuation or the elimination of the current federal-state relationship nor preclude a re-evaluation of the federal-state relationship in transportation.

ROTH AMENDMENTS NOS. 1430–1431

(Ordered to lie on the table.)

Mr. ROTH submitted two amendments intended to be proposed by him to the bill, S. 440, supra; as follows:

AMENDMENT NO. 1430

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

SEC. 1 . INTERCITY RAIL INFRASTRUCTURE INVESTMENT.

(a) INTERSTATE RAIL COMPACTS.—

(1) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

(A) retaining an existing service or commencing a new service;

(B) assembling rights-of-way; and

(C) performing capital improvements, including—

(i) the construction and rehabilitation of maintenance facilities;

(ii) the purchase of locomotives; and

(iii) operational Improvements, including communications, signals, and other systems.

(2) FINANCING.—An interstate compact established by States under paragraph (1) may provide that, in order to carry out the compact, the States may—

(A) accept contributions from a unit of State or local government or a person;

(B) use any Federal or State funds made available for intercity passenger rail service (except funds made available for the National Railroad Passenger Corporation);

(C) on such terms and conditions as the States consider advisable—

(i) borrow money on a short-term basis and issue notes for the borrowing; and

(ii) issue bonds; and

(D) obtain financing by other means permitted under Federal or State law.

(b) ELIGIBILITY OF PASSENGER RAIL AS SURFACE TRANSPORTATION PROGRAM PROJECT.—Section 133(b) of title 23, United States Code, is amended—

(1) in paragraph (1), by inserting ", railroads," after "highways)"; and

(2) in paragraph (2)—

(A) by inserting ", all eligible activities under section 5311 of title 49, United States Code," before "and publicly owned";

(B) by inserting "or rail passenger" after "intercity bus"; and

(C) by inserting before the period at the end the following: ", including terminals and facilities owned by the National Railroad Passenger Corporation".

(c) ELIGIBILITY OF PASSENGER RAIL UNDER CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) if the project or program will have air quality benefits through construction of and operational improvements for intercity passenger rail facilities, operation of intercity passenger rail trains, and acquisition of rolling stock for intercity passenger rail service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operating support.".

(d) ELIGIBILITY OF PASSENGER RAIL FOR MASS TRANSPORTATION FUNDING.—Section 5311 of title 49, United States Code, is amended—

(1) in subsection (a), by inserting ", including an operator of intercity passenger rail transportation service" before the period at the end; and

(2) in subsection (b), by adding at the end the following:

"(3) Grants for intercity passenger rail service under this section shall be used to preserve the maximum choice of passenger modes in areas other than urbanized areas.".

AMENDMENT NO. 1431

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

SEC. 1 . INTERCITY RAIL INFRASTRUCTURE INVESTMENT.

(a) INTERSTATE RAIL COMPACTS.—

(1) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

(A) retaining an existing service or commencing a new service;

(B) assembling rights-of-way; and

(C) performing capital improvements, including—

(i) the construction and rehabilitation of maintenance facilities;

(ii) the purchase of locomotives; and

(iii) operational improvements, including communications, signals, and other systems.

(2) FINANCING.—An interstate compact established by States under paragraph (1) may provide that, in order to carry out the compact, the States may—

(A) accept contributions from a unit of State or local government or a person;

(B) use any Federal or State funds made available for intercity passenger rail service (except funds made available for the National Railroad Passenger Corporation);

(C) on such terms and conditions as the States consider advisable—

(i) borrow money on a short-term basis and issue notes for the borrowing; and

(ii) issue bonds; and

(D) obtain financing by other means permitted under Federal or State law.

(b) ELIGIBILITY OF PASSENGER RAIL AS NATIONAL HIGHWAY SYSTEM PROJECT.—Section 103(i) of title 23, United States Code, is amended by adding at the end the following:

''(14) Construction of and operational improvements for intercity passenger rail facilities, operation of intercity passenger rail trains, and acquisition of rolling stock for intercity passenger rail service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operation.''.

(c) ELIGIBILITY OF PASSENGER RAIL AS SURFACE TRANSPORTATION PROGRAM PROJECT.—Section 133(b) of title 23, United States Code, is amended—

(1) in paragraph (1), by inserting '', railroads,'' after ''highways)''; and

(2) in paragraph (2)—

(A) by inserting '', eligible activities under section 5311 of title 49, United States Code,'' before ''and publicly owned'';

(B) by inserting ''or rail passenger'' after ''intercity bus''; and

(C) by inserting before the period at the end the following: '', including terminals and facilities owned by the National Railroad Passenger Corporation''.

(d) ELIGIBILITY OF PASSENGER RAIL UNDER CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) if the project or program will have air quality benefits through construction of and operational improvements for intercity passenger rail facilities, operation of intercity passenger rail trains, and acquisition of rolling stock for intercity passenger rail service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operating support.''.

(e) ELIGIBILITY OF PASSENGER RAIL FOR MASS TRANSPORTATION FUNDING.—Section 5311 of title 49, United States Code, is amended—

(1) in subsection (a), by inserting '', including an operator of intercity passenger rail transportation service'' before the period; and

(2) in subsection (b), by adding at the end the following:

''(3) Grants for intercity passenger rail service under this section shall be used to preserve the maximum choice of passenger modes in areas other than urbanized areas.''.

INHOFE AMENDMENT NO. 1432

Mr. CHAFEE (for Mr. INHOFE) proposed an amendment to the bill, S. 440, supra; as follows:

At the appropriate place, insert:

SECTION . QUALITY THROUGH COMPETITION.

(a) CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.—Section 112(b)(2) of title 23, United States Code, is amended by adding at the end the following new subparagraphs:

''(C) PERFORMANCE AND AUDITS.—Any contract or subcontract awarded in accordance with subparagraph (A), whether funded in whole or in part with Federal-aid highway funds, shall be performed and audited in compliance with cost principles contained in the Federal acquisition regulations of part 31 of title 48 of the Code of Federal Regulations.

''(D) INDIRECT COST RATES.—In lieu of performing its own audits, a recipient of funds under a contract or subcontract awarded in accordance with subparagraph (A) shall accept indirect cost rates established in accordance with the Federal acquisition regulations for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute. Once a firm's indirect cost rates are accepted, the recipient of such funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or de facto ceilings of any kind. A recipient of such funds requesting or using the cost and rate data described in this subparagraph shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to another firm or to any government agency which is not part of the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

''(E) EFFECTIVE DATE/STATE OPTION.—Subparagraphs (C) and (D) shall take effect upon the date of enactment of this Act; Provided, however, that if a State, during the first regular session of the State legislature convening after the date of enactment of this Act, adopts by statute an alternative process intended to promote engineering and design quality, reduce life-cycle costs, and ensure maximum competition by professional companies of all sizes providing engineering and design services, such subparagraphs shall not apply in that State.''

JEFFORDS (AND LEAHY) AMENDMENT NO. 1433

Mr. CHAFEE (for Mr. JEFFORDS for himself and Mr. LEAHY) proposed an amendment to the bill, S. 440, supra; as follows:

At the appropriate place, insert the following:

SEC. . FEDERAL SHARE FOR ECONOMIC GROWTH CENTER DEVELOPMENT HIGHWAYS.

Section 1021(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) (as amended by section 417 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (Public Law 102–388; 106 Stat. 1565)) is amended—

(1) in paragraph (2), by striking ''and'' at the end and inserting ''or''; and

(2) in paragraph (3), by striking ''section 143 of title 23'' and inserting ''a project for the construction, reconstruction, or improvement of a development highway on a Federal-aid system, as described in section 103 of such title (as in effect on the day before the date of enactment of this Act) (other than the Interstate System), under section 143 of such title''.

DASCHLE (AND OTHERS) AMENDMENT NO. 1434

Mr. BAUCUS (for Mr. DASCHLE, Mr. HARKIN, and Mr. KERRY) proposed an amendment to the bill, S. 440, supra; as follows:

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

SEC. 1 . VEHICLE WEIGHT AND LONGER COMBINATION VEHICLES EXEMPTION FOR SIOUX CITY, IOWA.

(a) VEHICLE WEIGHT LIMITATIONS.—The proviso in the second sentence of section 127(a) of title 23, United States Code, is amended by striking ''except for those'' and inserting the following: ''except for vehicles using Interstate 29 between Sioux City, Iowa, and the border between Iowa and South Dakota and vehicles using Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska, and except for''.

(b) LONGER COMBINATION VEHICLES.—Section 127(d)(1) of title 23, United States Code, is amended by adding at the end the following:

''(F) IOWA.—In addition to vehicles that the State of Iowa may continue to allow to be operated under subparagraph (A), the State of Iowa may allow longer combination vehicles that were not in actual operation on June 1, 1991, to be operated on Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota and Interstate 129 between Sioux City, Iowa, and the border between Iowa and Nebraska.''.

BOXER AMENDMENT NO. 1435

Mr. BAUCUS (for Mrs. BOXER) proposed an amendment to the bill, S. 440, supra; as follows:

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

SEC. 1 . REVISION OF AUTHORITY FOR CONGESTION RELIEF PROJECT IN CALIFORNIA.

Item 1 of the table in section 1104(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2029) is amended by striking ''Construction of HOV Lanes on I–710'' and inserting ''Construction of automobile and truck separation lanes at the southern terminus of I–710''.

KOHL AMENDMENT NO. 1436

Mr. BAUCUS (for Mr. KOHL) proposed an amendment to the bill, S. 440, supra; as follows:

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

SEC. 1 . APPLICABILITY OF CERTAIN VEHICLE WEIGHT LIMITATIONS IN WISCONSIN.

Section 127 of title 23, United States Code, is amended by adding at the end the following:

''(f) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON CERTAIN WISCONSIN HIGHWAYS.—If the 104-mile portion of Wisconsin State Route 78 and United States Route 51 between Interstate Route 94 near Portage, Wisconsin, and Wisconsin State Route 29 south of Wausau, Wisconsin, is designated as part of the Interstate System under section 139(a), the single axle weight, tandem axle weight, gross vehicle weight, and bridge formula limits set forth in subsection (a) shall not apply to the 104-mile

portion with respect to the operation of any vehicle that could legally operate on the 104-mile portion before the date of enactment of this subsection.''.

SMITH (AND OTHERS) AMENDMENT NO. 1437

Mr. SMITH (for himself, Mr. GREGG, Ms. SNOWE, Mr. CAMPBELL, Mr. KEMPTHORNE, Mr. THOMAS, and Mr. BROWN) proposed an amendment to the bill, S. 440, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . ELIMINATION OF PENALTIES FOR NONCOMPLIANCE WITH MOTORCYCLE HELMET AND AUTOMOBILE SAFETY BELT REQUIREMENTS.

Section 153 of title 23, United States Code, is amended—

(1) by striking out subsection (h); and

(2) by redesignating subsections (i) through (k) as subsections (h) through (j), respectively.

McCAIN (AND OTHERS) AMENDMENT NO. 1438

Mr. MCCAIN (for himself, Mr. SMITH, and Mr. FEINGOLD) proposed an amendment to the bill, S. 440, supra; as follows:

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

SEC. 1 . PROHIBITION ON NEW HIGHWAY DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Notwithstanding any other law, neither the Secretary of Transportation nor any other officer or employee of the United States may make funds available for obligation to carry out any demonstration project described in subsection (b) that has not been authorized, or for which no funds have been made available, as of the date of enactment of this Act.

(b) PROJECTS. Subsection (a) applies to a demonstration project or program that the Secretary of Transportation determines—

(1)(A) concerns a State-specific highway project or research or development in a specific State; or

(B) is otherwise comparable to a demonstration project or project of national significance authorized under any of sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2027); and

(2) does not concern a federally owned highway

THURMOND (AND OTHERS) AMENDMENT NO. 1439

Mr. WARNER (for Mr. THURMOND, Mr. HOLLINGS, Mr. HELMS, Mr. FAIRCLOTH, and Mr. WARNER) proposed an amendment to the bill, S. 440, supra; as follows:

On page 34, strike lines 17 through 24 and insert:

''(dd) United States Route 220 to United States Route 1 near Rockingham;

''(ee) United States Route 1 to the South Carolina State line;

''(ff) South Carolina State line to Charleston, South Carolina; and''.

On page 35 between lines 13 and 14, insert:

''(ee) United States Route 220 to United States Route 74 near Rockingham;

''(ff) United States Route 74 to United States Route 76 near Whiteville;

''(gg) United States Route 74/76 to the South Carolina State line in Brunswick County;

''(hh) South Carolina State line to Charleston, South Carolina''.

On page 34, strike lines 8 and 9 and insert:

''(iii) In the states of North Carolina and South Carolina, the corridor shall generally follow—''.

SIMON (AND OTHERS) AMENDMENT NO. 1440

Mr. WARNER (for Mr. SIMON for himself, Ms. MOSELEY-BRAUN, Mr. HARKIN, and Mr. GRASSLEY) proposed an amendment to the bill, S. 440, supra; as follows:

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

SEC. 1 . TREATMENT OF CENTENNIAL BRIDGE, ROCK ISLAND, ILLINOIS, AGREEMENT.

For purposes of section 129(a)(6) of title 23, United States Code, the agreement concerning the Centennial Bridge, Rock Island, Illinois, entered into under the Act entitled ''An Act authorizing the city of Rock Island, Illinois, or its assigns, to construct, maintain, and operate a toll bridge across the Mississippi River at or near Rock Island, Illinois, and to a place at or near the city of Davenport, Iowa'', approved March 18, 1938 (52 Stat. 110, chapter 48), shall be treated as if the agreement had been entered into under section 129 of title 23, United States Code, as in effect on December 17, 1991, and may be modified in accordance with section 129(a)(6) of the title.

GREGG (AND OTHERS) AMENDMENT NO. 1441

Mr. WARNER (for Mr. GREGG for himself, Mr. BOND, and Mrs. HUTCHISON) proposed an amendment to the bill, S. 440, supra; as follows:

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

SEC. 1 . MORATORIUM ON CERTAIN EMISSIONS TESTING REQUIREMENTS.

(a) MORATORIUM.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency (referred to in this subsection as the ''Administrator'') shall not require adoption or implementation by a State of a test-only or I/M240 enhanced vehicle inspection and maintenance program as a means of compliance with section 182 of the Clean Air Act (42 U.S.C. 7511a), but the Administrator may approve such a program if a State chooses to adopt the program as a means of compliance.

(2) REPEAL.—Paragraph (1) is repealed effective as of the date that is 1 year after the date of enactment of this Act.

(b) PLAN APPROVAL.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency (referred to in this subsection as the ''Administrator'') shall not disapprove a State implementation plan revision under section 182 of the Clean Air Act (42 U.S.C. 7511a) on the basis of a regulation providing for a 50-percent discount for alternative test-and-repair inspection and maintenance programs.

(2) CREDIT.—If a State provides data for a proposed inspection and maintenance system for which credits are appropriate under section 182 of the Clean Air Act (42 U.S.C. 7511a), the Administrator shall allow the full amount of credit for the system that is appropriate without regard to any regulation that implements that section by requiring centralized emissions testing.

(3) DEADLINE.—The Administrator shall complete and present a technical assessment of data for a proposed inspection and maintenance system submitted by a State not later than 45 days after the date of submission.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CHAFEE. 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, June 20, 1995, to conduct a semiannual oversight hearing of the Resolution Trust Corporation.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 20, 1995, at 11 a.m.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 20, 1995, at 2 p.m.

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

SUBCOMMITTEE ON EDUCATION, ARTS AND HUMANITIES

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts and Humanities of the Committee on Labor and Human Resources be authorized to meet for a hearing on the Privatization of Sallie Mae and Connie Lee, during the session of the Senate on Tuesday, June 20, 1995 at 9:30 a.m.

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

SUBCOMMITTEE ON SOCIAL SECURITY AND FAMILY POLICY

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Social Security and Family Policy of the Committee on Finance be permitted to meet on Tuesday, June 20, 1995 beginning at 10 a.m. in room SD–215, to conduct a hearing on the business and financial practices of the American Association of Retired Persons.

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

ADDITIONAL STATEMENTS

BUDGET SCOREKEEPING REPORT

• Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through June 16, 1995. The estimates of

budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 218), show that current level spending is below the budget resolution by $5.6 billion in budget authority and $1.4 billion in outlays. Current level is $0.5 billion over the revenue floor in 1995 and below by $9.5 billion over the 5 years 1995–99. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $238.0 billion, $3.1 billion below the maximum deficit amount for 1995 of $241.0 billion.

Since my last report, dated June 8, 1995, there has been no action that affects the current level of budget authority, outlays, or revenues.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 19, 1995.

Hon. PETE DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1995 shows the effects of Congressional action on the 1995 budget and is current through June 16, 1995. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1995 Concurrent Resolution on the Budget (H. Con. Res. 218). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements of Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated June 8, 1995, there has been no action to change the current level of budget authority, outlays or revenues.

Sincerely,

JUNE E. O'NEILL,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1995, 104TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS JUNE 16, 1995

[In billions of dollars]

	Budget resolution (H. Con. Res. 218) [1]	Current level [2]	Current level over/under resolution
ON-BUDGET			
Budget Authority	1,238.7	1,233.1	−5.6
Outlays	1,217.6	1,216.2	−1.4
Revenues:			
1995	977.7	978.2	0.5
1995–99	5,415.2	5,405.7	−9.5
Deficit	241.0	238.0	−3.1
Debt Subject to Limit	4,965.1	4,803.4	−161.7
OFF-BUDGET			
Social Security Outlays:			
1995	287.6	287.5	−0.1
1995–99	1,562.6	1,562.6	(3)
Social Security Revenues:			
1995	360.5	360.3	−0.2
1995–99	1,998.4	1,998.2	−0.2

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Less than $50 million.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1995, AS OF CLOSE OF BUSINESS JUNE 16, 1995

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues	.....	.....	978,466
Permanents and other spending legislation	750,307	706,236	.....
Appropriation legislation	378,096	757,783	.....
Offsetting receipts	−250,027	−250,027	.....
Total previously enacted	1,238,376	1,213,992	978,466
ENACTED THIS SESSION			
1995 Emergency Supplementals and Rescissions Act (P.L. 104–6)	−3,386	−1,008	.....
Self-Employed Health Insurance Act (P.L. 104–7)	.....	.....	−248
Total enacted this session	−3,386	−1,008	−248
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	−1,887	3,189	.....
Total current level [1]	1,233,103	1,216,173	978,218
Total budget resolution	1,238,744	1,217,605	977,700
Amount remaining:			
Under budget resolution	5,641	1,432	.....
Over budget resolution	.....	.....	518

[1] In accordance with the Budget Enforcement Act, the total does not include $3,905 million in budget authority and $7,442 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $841 million in budget authority and $917 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount requested as an emergency requirement.

●

TRIBUTE TO HENRY STRAUSS

● Mr. DODD. Mr. President, I rise today to recognize a distinguished citizen of my home State of Connecticut, Henry Strauss, on the occasion of his 80th birthday.

Mr. Strauss was born in New York City in 1915, where he attended New York City public schools and was an intercollegiate diving champion at his alma mater, New York University.

In 1940 he married his wife Joan and a year later began active duty in the U.S. Navy, where he served with distinction. He survived the worst noncombat disaster in the history of the Navy in a gale off the coast of Newfoundland. For helping save the lives of his shipmates, Mr. Strauss was cited for heroism and commissioned to command a subchaser in the South Pacific through some of the worst naval combat of the war. He retired from the Navy in 1946 as a lieutenant junior grade.

Upon his return from the war, Mr. Strauss moved to Connecticut to raise two daughters and start his own business. Through this company, Henry Strauss Productions, Mr. Strauss pioneered the use of film to teach, train, increase people's productivity, and promote understanding between cultures. Clients of Henry Strauss Productions included the U.S. Army, the State Department, IBM, United States Steel, and Pan American Airways.

He was the first American filmmaker allowed by the Soviet Government to make a documentary film on that country, a project he completed in 1960. Other films he made for his clients included films on England, Spain, Tahiti, and Africa. His career culminated with an Academy Award nomination for best documentary for his film ''Art Is.''

Henry Strauss's love of the sea has brought him to navigate six of the seven oceans of the world, compete and place in some of the world's most prestigious yachting competitions, and earn distinguished membership into the Explorers' Club, the Cruising Club of America, and the New York Yacht Club.

Throughout his life he has successfully encouraged his two daughters and three grandchildren to be civic-minded and politically active citizens.

Once again I would like to congratulate Henry Strauss on this auspicious occasion.●

THE RAINBOW HOUSE/ARCO IRIS

● Mr. SIMON. Mr. President, today, I would like to pay tribute to the Rainbow House/Arco Iris, a shelter for battered women located in the Chicago area. Since 1982, Rainbow House has provided shelter, counseling, and support services for over 5,000 battered women and their children.

Recognizing that shelters are not the sole answer to domestic violence, the Rainbow House has been actively committed to developing an energetic community education and prevention initiative. This important organization has presented hundreds of community education workshops for thousands of teachers and students. The goal—to stop the problem before it starts by teaching young children how to express their strong feelings without violence.

Domestic abuse is a serious and pervasive problem in our culture. In fact, abuse is the single largest cause of injury to women. The FBI estimates that a woman is beaten in the United States every 15 seconds.

Family abuse, including child abuse is found on every level of society, regardless of race, education, age, or income. The National Coalition Against Domestic Violence estimates that in 50 percent of the families where a woman is being beaten, children are being abused as well.

Ten years ago there were fewer than a dozen shelters for battered women nationwide. Now, Rainbow House is 1 of more than 600. It is with great pleasure and admiration that I recognize the work of this fine organization.●

PROVIDING FOR DEPOSIT OF FUNDS FOR SENATE PAGE RESIDENCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 137, submitted earlier by Senators DOLE and DASCHLE.

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

The clerk will state the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 137) to provide for the deposit of funds for the Senate page residence.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, I ask unanimous consent that the resolution be considered and agreed to, that the motion to reconsider be laid on the table, and that any statements related to the resolution appear at the appropriate place in the RECORD.

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

So the resolution (S. Res. 137) was agreed to, as follows:

S. RES. 137

Resolved, That effective on and after June 18, 1995, amounts withheld by the Secretary of the Senate under section 902 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 88b–6) shall be deposited in the revolving fund, within the contingent fund of the Senate, for the Daniel Webster Senate Page Residence, as established by section 4 of the Legislative Branch Appropriations Act, 1995 (2 U.S.C. 88b–7).

LEGISLATIVE LINE-ITEM VETO ACT OF 1995—MESSAGE FROM THE HOUSE

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 4) a bill to grant the power to the President to reduce budget authority.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 4) entitled ''An Act to grant the power to the President to reduce budget authority'', do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Line Item Veto Act''.

SEC. 2. LINE ITEM VETO AUTHORITY.

(a) IN GENERAL.—Notwithstanding the provisions of part B of title X of the Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of any dollar amount of any discretionary budget authority specified in an appropriation Act or conference report or joint explanatory statement accompanying a conference report on the Act, or veto any targeted tax benefit which is subject to the terms of this Act if the President—

(1) determines that—

(A) such rescission or veto would help reduce the Federal budget deficit;

(B) such rescission or veto will not impair any essential Government functions; and

(C) such rescission or veto will not harm the national interest; and

(2) notifies the Congress of such rescission or veto by a special message not later than ten calendar days (not including Sundays) after the date of enactment of an appropriation Act providing such budget authority or a revenue or reconciliation Act containing a targeted tax benefit.

(b) DEFICIT REDUCTION.—In each special message, the President may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the total amount of discretionary budget authority rescinded by that message.

(c) SEPARATE MESSAGES.—The President shall submit a separate special message for each appropriation Act and for each revenue or reconciliation Act under this section.

(d) LIMITATION.—No special message submitted by the President under this section may change any prohibition or limitation of discretionary budget authority set forth in any appropriation Act.

(e) SPECIAL RULE FOR FISCAL YEAR 1995 APPROPRIATION MEASURES.—Notwithstanding subsection (a)(2), in the case of any unobligated discretionary budget authority provided by any appropriation Act for fiscal year 1995, the President may rescind all or part of that discretionary budget authority under the terms of this Act if the President notifies the Congress of such rescission by a special message not later than ten calendar days (not including Sundays) after the date of enactment of this Act.

SEC. 3. LINE ITEM VETO EFFECTIVE UNLESS DISAPPROVED.

(a)(1) Any amount of budget authority rescinded under this Act as set forth in a special message by the President shall be deemed canceled unless, during the period described in subsection (b), a rescission/receipts disapproval bill making available all of the amount rescinded is enacted into law.

(2) Any provision of law vetoed under this Act as set forth in a special message by the President shall be deemed repealed unless, during the period described in subsection (b), a rescission/receipts disapproval bill restoring that provision is enacted into law.

(b) The period referred to in subsection (a) is—

(1) a congressional review period of twenty calendar days of session, beginning on the first calendar day of session after the date of submission of the special message, during which Congress must complete action on the rescission/receipts disapproval bill and present such bill to the President for approval or disapproval;

(2) after the period provided in paragraph (1), an additional ten days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission/receipts disapproval bill; and

(3) if the President vetoes the rescission/receipts disapproval bill during the period provided in paragraph (2), an additional five calendar days of session after the date of the veto.

(c) If a special message is transmitted by the President under this Act and the last session of the Congress adjourns sine die before the expiration of the period described in subsection (b), the rescission or veto, as the case may be, shall not take effect. The message shall be deemed to have been retransmitted on the first Monday in February of the succeeding Congress and the review period referred to in subsection (b) (with respect to such message) shall run beginning after such first day.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term ''rescission/receipts disapproval bill'' means a bill or joint resolution which only disapproves, in whole, rescissions of discretionary budget authority or only disapproves vetoes of targeted tax benefits in a special message transmitted by the President under this Act and—

(A) which does not have a preamble;

(B)(i) in the case of a special message regarding rescissions, the matter after the enacting clause of which is as follows: ''That Congress disapproves each rescission of discretionary budget authority of the President as submitted by the President in a special message on _____'', the blank space being filled in with the appropriate date and the public law to which the message relates; and

(ii) in the case of a special message regarding vetoes of targeted tax benefits, the matter after the enacting clause of which is as follows: ''That Congress disapproves each veto of targeted tax benefits of the President as submitted by the President in a special message on _____'', the blank space being filled in with the appropriate date and the public law to which the message relates; and

(C) the title of which is as follows: ''A bill disapproving the recommendations submitted by the President on _____'', the blank space being filled in with the date of submission of the relevant special message and the public law to which the message relates.

(2) The term ''calendar days of session'' shall mean only those days on which both Houses of Congress are in session.

(3) The term ''targeted tax benefit'' means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.

(4) The term ''appropriation Act'' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations.

SEC. 5. CONGRESSIONAL CONSIDERATION OF LINE ITEM VETOES.

(a) PRESIDENTIAL SPECIAL MESSAGE.—Whenever the President rescinds any budget authority as provided in this Act or vetoes any provision of law as provided in this Act, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority rescinded or the provision vetoed;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons and justifications for the determination to rescind budget authority or veto any provision pursuant to this Act;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission or veto; and

(5) all actions, circumstances, and considerations relating to or bearing upon the rescission or veto and the decision to effect the rescission or veto, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(b) TRANSMISSION OF MESSAGES TO HOUSE AND SENATE.—

(1) Each special message transmitted under this Act shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(2) Any special message transmitted under this Act shall be printed in the first issue of the Federal Register published after such transmittal.

(c) INTRODUCTION OF RESCISSION/RECEIPTS DISAPPROVAL BILLS.—The procedures set forth in subsection (d) shall apply to any rescission/receipts disapproval bill introduced in the House of Representatives not later than the third calendar day of session beginning on the day after the date of submission of a special message by the President under section 2.

(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—(1) The committee of the House of Representatives to which a rescission/receipts disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the eighth calendar day of session after the date of its introduction. If the committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill. A motion to discharge may be made only by an individual favoring the bill (but only after the legislative day on which a Member announces to the House the Member's intention to do so). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(2) After a rescission/receipts disapproval bill is reported or the committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. All points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. The previous question shall be considered as ordered on that motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed without intervening motion, shall be confined to the bill, and shall not exceed two hours equally divided and controlled by a proponent and an opponent of the bill. No amendment to the bill is in order, except any Member may move to strike the disapproval of any rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

(3) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives to the procedure relating to a bill described in subsection (a) shall be decided without debate.

(4) It shall not be in order to consider more than one bill described in subsection (c) or more than one motion to discharge described in paragraph (1) with respect to a particular special message.

(5) Consideration of any rescission/receipts disapproval bill under this subsection is governed by the rules of the House of Representatives except to the extent specifically provided by the provisions of this Act.

(e) CONSIDERATION IN THE SENATE.—

(1) Any rescission/receipts disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this Act.

(2) Debate in the Senate on any rescission/receipts disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to one hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed one, not counting any day on which the Senate is not in session) is not in order.

(f) POINTS OF ORDER.—

(1) It shall not be in order in the Senate to consider any rescission/receipts disapproval bill that relates to any matter other than the rescission of budget authority or veto of the provision of law transmitted by the President under this Act.

(2) It shall not be in order in the Senate to consider any amendment to a rescission/receipts disapproval bill.

(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

SEC. 6. REPORTS OF THE GENERAL ACCOUNTING OFFICE.

Beginning on January 6, 1996, and at one-year intervals thereafter, the Comptroller General shall submit a report to each House of Congress which provides the following information:

(1) A list of each proposed Presidential rescission of discretionary budget authority and veto of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each rescission of discretionary budget authority or veto of a targeted tax benefit was accepted or rejected by Congress.

(2) The total number of proposed Presidential rescissions of discretionary budget authority and vetoes of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(3) The total number of Presidential rescissions of discretionary budget authority or vetoes of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year and approved by Congress, together with their total dollar value.

(4) A list of rescissions of discretionary budget authority initiated by Congress for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each such rescission was accepted or rejected by Congress.

(5) The total number of rescissions of discretionary budget authority initiated and accepted by Congress for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(6) A summary of the information provided by paragraphs (2), (3) and (5) for each of the ten fiscal years ending before the fiscal year during this calendar year.

SEC. 7. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this Act violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Any action brought under paragraph (1) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

Amend the title so as to read: ''An Act to give the President item veto authority over appropriation Acts and targeted tax benefits in revenue Acts.''.

Mr. DOLE. I move that the Senate disagree to the House amendments, request a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer appointed Mr. ROTH, Mr. STEVENS, Mr. THOMPSON, Mr. COCHRAN, Mr. MCCAIN, Mr. GLENN, Mr. LEVIN, Mr. PRYOR, Mr. SARBANES, Mr. DOMENICI, Mr. GRASSLEY, Mr. NICKLES, Mr. GRAMM of Texas, Mr. COATS, Mr. EXON, Mr. HOLLINGS, Mr. JOHNSTON, and Mr. DODD.

Mr. DOLE. Mr. President, let me indicate that the Senator from Kentucky, Senator FORD, will want to make a statement on that particular item after I obtain consent.

ORDERS FOR WEDNESDAY, JUNE 21, 1995

Mr. DOLE. I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m., on Wednesday, June 21, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and under the provisions of a previous unanimous-consent agreement, the Senate immediately go into executive session for 3 hours of debate on the nomination of Dr. Foster; I further ask unanimous consent that if cloture is not invoked on the Foster nomination on Wednesday, the Senate then resume consideration of S. 440, the National Highway System bill and at that time the Senator from Maine be recognized to offer an amendment regarding helmets.

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

Mr. DOLE. As a reminder for all Senators, the Senate will debate the Foster nomination from 9 a.m. to 12 noon tomorrow, with a cloture vote occurring on the nomination at 12 noon. If

cloture is not invoked at that time, the Senate will resume the highway bill.

We hope to complete the bill tomorrow evening. We will have rollcall votes throughout the day. I do not know of any conflicts tomorrow evening. Tonight, there are a number of conflicts, including the President and Mrs. Clinton have invited all Members to the White House for a picnic plus other things. I know that Senators have obligations to attend.

If cloture is not invoked Wednesday, a second vote on cloture will occur at 2 p.m. on Thursday.

If there is no further business to come before the Senate, I ask the Senate stand in recess under the previous order following the remarks of Senator FORD and Senator SANTORUM.

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

LINE-ITEM VETO

Mr. FORD. As the majority leader indicated as it relates to the line—item veto, I voted for the line-item veto when it left here because I think it is important that we put that into the structure.

When I spoke earlier, just before passage of the line-item veto legislation, I tried to tell my colleagues that the proposal that left here, in my opinion, was too cumbersome; that if we had the Interior appropriations bill that we had last session, there would be 2,040 pieces of legislation under that one bill. Then the President would have to sign 2,040 pieces of legislation in order to either sign them or veto them or line item it, however it might be. So it really is not a line-item veto; it becomes a multiple choice.

It reminds me when I was Governor that we would have a commission authorized, the Governor, to go to New York to sign bonds for highway projects, or whatever it might be. They give you one pen and there would be 49 other pens up there and you sign your name down here and the other 49 pens would work and all those bonds would move aside and then you sign them again.

That is basically what we are trying to do, I think, or cause the President to have to do once these pieces of legislation come up for line-item veto.

When I was Governor I had three options. I had line-item veto. The three options: one, I could line item it and send a message to the legislature why I had vetoed or line itemed that particular piece of legislation or that item in that legislation. The legislature could consider it. They could either sustain the Governor's veto or override it.

The second option I had was to reduce an amount. If we did not need to spend all of it—we had a 2-year budget, we did not need to spend all that money in the first year. We could reduce it, and you draw a line through it, initial it, send a message to the legislature, and they could either sustain or override the veto.

The third option I had was to line item a phrase. That may be a direction—''You cannot use any money for so and so,'' or ''If you are going to use money, you have to do it this way.'' The Governor had the right to eliminate a phrase.

Those are the only three things. It was simple, direct, and the legislature had an opportunity to sustain or override the veto.

What I am asking tonight, as the conferees were appointed for the line-item veto legislation in conference, is that they look very seriously at what the Senate has done in sending their piece of legislation to conference.

I think simpler is better. It is easy, it is direct. A message must come. And that message, then, can either be accepted or declined. Either sustain the veto or override the veto. I think that is what we ought to do.

Mr. President, I voted in support of the line-item veto when it left here in the hopes that it would be reduced and made somewhat simple so we could line-item veto, we could partially veto —or a phrase; it does not have to be all.

A line-item veto, when you try to explain it to your constituents back home, they think that gives the President the right to take some pork out of the budget.

Right now he has to sign 2,040 pieces of legislation for one appropriations bill. Just one. We are getting into thousands and thousands of pieces of legislation. I think that is wrong.

I hope the conferees will take into consideration my remarks tonight. I would be glad to work with them in any way. And several in this Chamber have had experience as Governors using the line-item veto. In my 4 years as Governor, it was seldom even considered.

It can be done and I think it can be done in the right sort of way. I thank the Chair for its courtesy. I yield the floor.

WHERE IS THE BUDGET?

Mr. SANTORUM. Thank you, Mr. President. First, I would like to thank the Chair for his indulgence in spending the time that I am supposed to be in the chair presiding and doing that for me. As customary, the Senator from Virginia is always there to do the gentlemanly thing and fill in a need. I appreciate very, very much the indulgence of the Senator.

I am back to continue my vigil in requesting the President put forward a balanced budget resolution. The last time I appeared here on the Senate floor was the night the President announced his balanced budget resolution. I had sketchy details at the time but did not have the full package that the President presented.

We have gotten it. It is about 6 or 7 pages, double-sided, about that big, that thick. That is his budget proposal, compared to his first budget proposal which was about this thick, to give the comparison, the amount of detail.

As Members have heard on the Senate floor today and in newspapers and other places, it just does not measure up. The President uses a whole lot of assumptions that are exaggerated and made to make the projections of the economic growth and interest rates and everything else look rosy, and as a result, gets to a balanced budget through his numbers with smoke and mirrors.

The Congressional Budget Office, who, in a State of the Union Address in 1993, he stated would be the numbers that he would use—that everyone should use because they are the most accurate—that he would use in determining whether we get to a balanced budget, scores the Clinton budget as continuing deficits of $200 billion or more. It is a straight line. Deficits do not come down at all under this budget proposal as scored by the Congressional Budget Office.

The people who scored his budget over 10 years as getting the deficit to zero were the Office of Management and Budget, which is over in the Department of Treasury, which is his own people scoring his own numbers, which are, as was said, rosy assumptions. The nonpartisan Congressional Budget Office, the one that the President says we have to use, says that we have $200 billion deficits into the future for the next 10 years.

So, as a result, I have to come back and add another number to this chart, which says, ''Days with no proposal to balance the budget from President Clinton.''

I gave a period of time to give him the benefit of the doubt to get the numbers up here to let us see what the specifics were, whether this would be scored by a neutral party, the Congressional Budget Office, as a balanced budget resolution. In fact it has come back to be not balanced. It is disappointing.

I just want to go over a couple of the details of the budget and then I want to address, finally, this chart which has gotten a little publicity here, of late.

First, the details of the budget. The Republican budget gets to balance by the year 2002. What are the deficits that are estimated by the Congressional Budget Office under the Clinton budget: $196 billion in 1996, $221 billion in 1997, $199 billion in 1998, $213 billion in 1999, $220 billion again in the year 2000; $211 billion in 2001, $210 billion in 2002, $207 billion in 2003, $209 billion in 2004, and $209 billion again in the year 2005; over $2 trillion in additional debt over the next 10 years under his revised budget which he says gets us to zero, which the Congressional Budget Office says gets us to even worse shape than we are now, $209 billion as opposed to $175 billion projected this year. So we have made no progress even under Clinton II.

Let us look at the specifics of Clinton II. If you compare the Clinton second budget to his first budget, the one he

submitted to the Congress in February that nobody in this Chamber voted for—99 ''no'' votes, 1 ''absent''—under the Clinton first budget in discretionary spending, that is nonentitlement spending, he cuts over 5 years, $2 billion from his first budget. This new revised budget that is going to be tough, that is going to get us to zero, that is going to do all these things—make the tough decisions, face up to the music for the American public, that he went on national television to tell us how important it was, now to come to the table and make these tough choices—$2 billion over 5 years.

Under his first budget he was to spend, just to give an idea of the magnitude of the numbers we are talking about, over the first 5 years in his first budget he submitted in February that did not come to balance—it did not even pretend to come to balance—total discretionary spending over that 5-year period, $2.730 trillion. That is the total discretionary spending accounted for in the Clinton first budget.

The Clinton second budget—new, improved, I am going to get you to balance, make the tough decisions, tighten the belt some more, we have gotten the message from the American public, I know you want me to deliver—not $2.730 but $2.728 trillion. So over 5 years he reduced discretionary spending by $2 billion. That is not a Weight Watchers approach to the budget. You are not going to loosen any notches on $2 billion out of $2.7 trillion.

So how does he do it, if he does not cut discretionary? He admits he does not cut discretionary. You cannot play around with those numbers. How does he do it? He looks at these cuts in the outyears. He does not do much in the first few years. He sort of back-end loads it.

In fact, of the 10-year budget that he has proposed, you would think if we are going to cut money over 10 years you would do it on a straight line. You cut so much per year every year to get to balance. It does not take much of a mathematician, which I am not, to figure out if you were going to cut the same amount every year to get your balance, sort of a straight line down, you would have to get about 10 percent a year. That is what you would figure.

In the first year the President cuts 2 percent; 2 percent of his cuts first year, 3 percent next, 4 percent next, 5 percent next, in years 9 and 10, 17—almost 18 percent of the cuts and almost 21 percent of the cuts; the last 2 years, long after—that is three Presidents from now—he decides that is when we are going to do all the cutting.

It is a lot easier if you are sitting in the White House and look two or three Presidents down the road and have them do all the tough work. He does not do any of the tough work under the rest of his administration or the potential next administration. So again, all the tough decisions are put off to future Congresses and future Presidents and none of the real tough decisions are made now.

I say that in criticism of the President's budget. But I will say that I appreciate that he at least came to the table. He did not come to the table with much. He is not going to feed a lot of people with what he has at the table, but he at least came. He entered into the debate, he made some, I think, relevant comments when he came to some of the health care programs and how they had to be on the table. I know it upset folks on the other side of the aisle but at least he came and said we have an obligation to do this.

I hope he comes back with some real budgets and with some real numbers that show that we will do this. So I unfortunately will have to come back and talk more about how the President has not come through with a budget.

There are a couple of things I want to comment on in wrapping up, and again I appreciate the indulgence of the Senator from Virginia.

There was an article in the Washington Post on Sunday about how some of my colleagues were upset with this chart I have on the floor because of its irreverence, some may suggest, in its title. I was criticized by Members that I should not, in a chart, refer to the President by his first name.

I did a little looking back, as to how the other side treated Republican Presidents when they were in the majority—when they were here and the President was a Republican. I found just a few things. We did not do an extensive research—frankly, you did not have to do extensive research to quickly find references to Presidents which were in my opinion a heck of a lot more pejorative in nature than mentioning the President's first name in a chart.

In the 99th Congress, the next-to-the-last Congress, when President Reagan served as President, there were 77 references by Members to the term ''Reaganomics.'' That at the time was not a flattering term. ''Reaganomics,'' 77 times. In the 100th Congress 42 times. The term ''Reaganomics'' appeared in the journal here in the U.S. Senate, used by Members of the U.S. Senate to describe Ronald Reagan's fiscal policies. That is not a very nice thing to say. Yet I do not recall any of those comments being made and Members being attacked for that.

I have, from the CONGRESSIONAL RECORD here, March 3, 1989, the Senator from South Carolina, the junior Senator from South Carolina referring to President Reagan as ''Ronnie,'' in his discussion. I do not assume to use any more familiar terms in referring to the current President.

I have, from the CONGRESSIONAL RECORD of 1991, the Senator from Massachusetts who used the term, not only on November 15, but on November 7 and November 1, the phrase ''waiting for George,'' George Bush, the President of the United States. ''Waiting for George is more frustrating than waiting for Godot.'' He used that phrase several times during debate in 1991 with respect to the unemployment compensation extension.

So, I mean, I also will refer back to the Senator from Massachusetts, September 20, 1988, during the campaign where he referred to the then-Vice President, candidate for President, as ''Where was George then?'' That was, as I mentioned before, the reason for this chart. The term ''Where's George'' was a popular saying back in 1988. And it was a popular saying, not as the Senator from North Dakota said to me while on debate the other day, at the Convention, the Democratic National Convention in 1988, but also on the floor of the U.S. Senate.

So, I think before we get a little high and mighty about the reverence paid to people, I do say ''Days with no proposal to balance the budget from President Clinton.'' We try to be respectful and I am respectful of the office of the President and of President Clinton, but I think this chart is well within the bounds of decorum here in the U.S. Senate, and I do so with the greatest amount of respect and also with a very sincere effort to try to bring the President's attention back to this issue, to where he can become a relevant player in making budget policy for this country, which I think the country needs.

Whether we like it or not, the President has to sign the budget reconciliation. So he needs to be relevant to this process. We need the President. We cannot do it alone. We would like to be able to do it alone but we cannot. That is not the way the Constitution set it up. He needs to be relevant and needs to be involved. And I appreciate the first step he took, and his advisers who encouraged him to come to the fore and make that suggestion.

Now it is time to come and do a little harder work and get that—sharpen that pencil a little bit and start working with real numbers to come up with real solutions to the problems that face this country.

Mr. President, I yield the floor.

RECESS UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until 9 a.m. tomorrow, June 21, 1995.

Thereupon, the Senate, at 7:29 p.m, recessed until Wednesday, June 21, 1995, at 9 a.m.